S. HRG. 104-869, VOL. XIV

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INVESTIGATION OF WHITEWATER DEVELOPMENT CORPORATION AND RELATED MATTERS

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WHITEWATER DEVELOPMENT CORPORATION
AND RELATED MATTERS

ADMINISTERED BY THE

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS UNITED STATES SENATE ONE HUNDRED FOURTH CONGRESS

FIRST SESSION

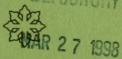
VOLUME XIV

ON

THE INQUIRY INTO WHETHER IMPROPER CONDUCT OCCURRED WITH RESPECT TO THE OPERATION, INVESTMENTS, AND ACTIVITIES OF WHITEWATER DEVELOPMENT CORPORATION, MADISON GUARANTY SAVINGS & LOAN, CAPITAL MANAGEMENT SERVICES, AND RELATED MATTERS

NOVEMBER 27; DECEMBER 4, 5, 12, 14, 18, 19, AND 21, 1995 JANUARY 5, 10, 15, 16, 17, 18, 19, 22, 24, AND 25, 1996

Printed for the use of the Committee on Banking, Housing, and Urban Affairs



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WASHINGTON: 1997



DEVELOPMENT CORPORATION AND RELATED MATTERS

DEPOSITIONS

BEFORE THE

SPECIAL COMMITTEE TO INVESTIGATE
WHITEWATER DEVELOPMENT CORPORATION
AND RELATED MATTERS

ADMINISTERED BY THE

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS UNITED STATES SENATE

ONE HUNDRED FOURTH CONGRESS

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104TH CONGRESS 1ST SESSION

S. RES. 120

Establishing a special committee administered by the Committee on Banking, Housing, and Urban Affairs to conduct an investigation involving Whitewater Development Corporation, Madison Guaranty Savings and Loan Association, Capital Management Services, Inc., the Arkansas Development Finance Authority, and other related matters.

IN THE SENATE OF THE UNITED STATES

MAY 17 (legislative day, MAY 15), 1995

Mr. D'AMATO (for himself and Mr. DOLE) submitted the following resolution; which was considered and agreed to

RESOLUTION

Establishing a special committee administered by the Committee on Banking, Housing, and Urban Affairs to conduct an investigation involving Whitewater Development Corporation. Madison Guaranty Savings and Loan Association, Capital Management Services, Inc., the Arkansas Development Finance Authority, and other related matters.

- 1 Resolved.
- 2 SECTION 1, ESTABLISHMENT OF SPECIAL COMMITTEE.
- 3 (a) ESTABLISHMENT.—There is established a special
- 4 committee administered by the Committee on Banking,
- 5 Housing, and Urban Affairs to be known as the "Special

1	Committee to Investigate Whitewater Development Cor-
2	poration and Related Matters" (hereafter in this resolu-
3	tion referred to as the "special committee").
4	(b) PURPOSES.—The purposes of the special commit-
5	tee are—
6	(1) to conduct an investigation and public hear-
7	ings into, and study of, whether improper conduct
8	occurred regarding the way in which White House
9	officials handled documents in the office of White
10	House Deputy Counsel Vincent Foster following his
11	death;
12	(2) to conduct an investigation and public hear-
13	ings into, and study of, the following matters devel-
14	oped during, or arising out of, the investigation and
15	public hearings concluded by the Committee on
16	Banking, Housing, and Urban Affairs prior to the
17	adoption of this resolution—
18	(A) whether any person has improperly
19	handled confidential Resolution Trust Corpora-
20	tion (hereafter in this resolution referred to as
21	the "RTC") information relating to Madison
22	Guaranty Savings and Loan Association or
23	Whitewater Development Corporation, including
24	whether any person has improperly commu-

1	nicated such information to individuals ref-
2	erenced therein;
3	(B) whether the White House has engaged
4	in improper contacts with any other agency or
5	department in the Government with regard to
6	confidential RTC information relating to Madi-
7.	son Guaranty Savings and Loan Association or
8	Whitewater Development Corporation;
9	(C) whether the Department of Justice has
10	improperly handled RTC criminal referrals re-
11	lating to Madison Guaranty Savings and Loan
12	Association or Whitewater Development Cor-
13	poration;
14	(D) whether RTC employees have been im-
15	properly importuned, prevented, restrained, or
16	deterred in conducting investigations or making
17	enforcement recommendations relating to Madi-
18	son Guaranty Savings and Loan Association or
19	Whitewater Development Corporation; and
20	(E) whether the report issued by the Office
21	of Government Ethics on July 31, 1994, or re-
22	lated transcripts of deposition testimony—
23	(i) were improperly released to White
24	House officials or others prior to their tes-
25	timony before the Committee on Banking,

1	Housing, and Urban Affairs pursuant to
2	Senate Resolution 229 (103d Congress); or
3	(ii) were used to communicate to
4 .	White House officials or to others con-
5	fidential RTC information relating to
6	Madison Guaranty Savings and Loan As-
7	sociation or Whitewater Development Cor-
8	poration;
9	(3) to conduct an investigation and public hear-
10	ings into, and study of, all matters that have any
11	tendency to reveal the full facts about—
12	(A) the operations, solvency, and regula-
13	tion of Madison Guaranty Savings and Loan
14	Association, and any subsidiary, affiliate, or
15	other entity owned or controlled by Madison
16	Guaranty Savings and Loan Association;
17	(B) the activities, investments, and tax li-
18	ability of Whitewater Development Corporation
19	and, as related to Whitewater Development
20	Corporation, of its officers, directors, and
21	shareholders;
22	(C) the policies and practices of the RTC
23	and the Federal banking agencies (as that term
24	is defined in section 3 of the Federal Deposit
25	Insurance Act) regarding the legal representa-

1	tion of such agencies with respect to Madison
2	Guaranty Savings and Loan Association;
3	(D) the handling by the RTC, the Office of
4	Thrift Supervision, the Federal Deposit Insur-
5	ance Corporation, and the Federal Savings and
6	Loan Insurance Corporation of civil or adminis-
7	trative actions against parties regarding Madi-
8	son Guaranty Savings and Loan Association;
9	(E) the sources of funding and the lending
10	practices of Capital Management Services, Inc.,
11	and its supervision and regulation by the Small
12	Business Administration, including any alleged
13	diversion of funds to Whitewater Development
14	Corporation;
15	(F) the bond underwriting contracts be-
16	tween Arkansas Development Finance Author-
17	ity and Lasater & Company; and
18	(G) the lending activities of Perry County
19	Bank, Perryville, Arkansas, in connection with
20	the 1990 Arkansas gubernatorial election;
21	(4) to make such findings of fact as are war-
22	ranted and appropriate;
23	(5) to make such recommendations, including
24	recommendations for legislative, administrative, or

1	other actions, as the special committee may deter-
2	mine to be necessary or desirable; and
3	(6) to fulfill the constitutional oversight and in-
4	formational functions of the Congress with respect
5	to the matters described in this section.
6	SEC. 2. MEMBERSHIP AND ORGANIZATION OF THE SPECIAL
7	COMMITTEE.
8	(a) Membership.—
9	(1) IN GENERAL.—The special committee shall
10	consist of—
11	(A) the members of the Committee on
12	Banking, Housing, and Urban Affairs; and
13	(B) the chairman and ranking member of
14	the Committee on the Judiciary, or their des-
15	ignees from the Committee on the Judiciary.
16	(2) SENATE RULE XXV.—For the purpose of
17	paragraph 4 of rule XXV of the Standing Rules of
18	the Senate, service of a Senator as the chairman or
19	other member of the special committee shall not be
20	taken into account.
21	(b) Organization of Special Committee.—
22	(1) CHAIRMAN.—The chairman of the Commit-
23	tee on Banking, Housing, and Urban Affairs shall
24	serve as the chairman of the special committee

- 1 (hereafter in this resolution referred to as the 2 "chairman").
- 3 (2) RANKING MEMBER.—The ranking member 4 of the Committee on Banking, Housing, and Urban 5 Affairs shall serve as the ranking member of the 6 special committee (hereafter in this resolution re-7 ferred to as the "ranking member").
 - (3) QUORUM.—A majority of the members of the special committee shall constitute a quorum for the purpose of reporting a matter or recommendation to the Senate. A majority of the members of the special committee, or one-third of the members of the special committee if at least one member of the minority party is present, shall constitute a quorum for the conduct of other business. One member of the special committee shall constitute a quorum for the purpose of taking testimony.
- 15 16 17 (c) RULES AND PROCEDURES.—Except as otherwise 18 specifically provided in this resolution, the special commit-19 tee's investigation, study, and hearings shall be governed 20 by the Standing Rules of the Senate and the Rules of Pro-21 cedure of the Committee on Banking, Housing, and Urban Affairs. The special committee may adopt additional rules or procedures not inconsistent with this resolution or the 24 Standing Rules of the Senate if the chairman and ranking

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- 1 member agree that such additional rules or procedures are
- 2 necessary to enable the special committee to conduct the
- 3 investigation, study, and hearings authorized by this reso-
- 4 lution. Any such additional rules and procedures shall be-
- 5 come effective upon publication in the Congressional
- 6 Record.

7 SEC. 3. STAFF OF THE SPECIAL COMMITTEE.

- 8 (a) APPOINTMENTS.—To assist the special committee
- 9 in the investigation, study, and hearings authorized by this
- 10 resolution, the chairman and the ranking member each
- 11 may appoint special committee staff, including consult-
- 12 ants.
- 13 (b) Assistance From the Senate Legal Coun-
- 14 SEL.—To assist the special committee in the investigation,
- 15 study, and hearings authorized by this resolution, the Sen-
- 16 ate Legal Counsel and the Deputy Senate Legal Counsel
- 17 shall work with and under the jurisdiction and authority
- 18 of the special committee.
- 19 (c) ASSISTANCE FROM THE COMPTROLLER GEN-
- 20 ERAL.—The Comptroller General of the United States is
- 21 requested to provide from the General Accounting Office
- 22 whatever personnel or other appropriate assistance as may
- 23 be required by the special committee, or by the chairman
- 24 or the ranking member.

1	SEC. 4. PUBLIC ACTIVITIES OF THE SPECIAL COMMITTEE
2	(a) IN GENERAL.—Consistent with the rights of per-
3	sons subject to investigation and inquiry, the special com-
4	mittee shall make every effort to fulfill the right of the
5	public and the Congress to know the essential facts and
6	implications of the activities of officials of the United
7	States Government and other persons and entities with re-
8	spect to the matters under investigation and study, as de-
9	scribed in section 1.
10	(b) DUTIES.—In furtherance of the right of the pub-
11	lic and the Congress to know, the special committee—
12	(1) shall hold, as the chairman (in consultation
13	with the ranking member) considers appropriate and
14	in accordance with paragraph 5(b) of rule XXVI o
15	the Standing Rules of the Senate, hearings on spe
16	cific subjects, subject to consultation and coordina
17	tion with the independent counsel appointed pursu
18	ant to chapter 40 of title 28, United States Code
19	in Division No. 94-1 (D.C. Cir. August 5, 1994
20	(hereafter in this resolution referred to as "the inde
21	pendent counsel");
22	(2) may make interim reports to the Senate a

- (2) may make interim reports to the Senate as it considers appropriate; and
- (3) shall make a final comprehensive public report to the Senate which contains—

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1	(A) a description of all relevant factual de-
2	terminations; and
3	(B) recommendations for legislation, if
4	necessary.
5	SEC. 5. POWERS OF THE SPECIAL COMMITTEE.
6	(a) IN GENERAL.—The special committee shall do ev-
7	erything necessary and appropriate under the laws and the
8	Constitution of the United States to conduct the investiga-
9	tion, study, and hearings authorized by section 1.
10	(b) EXERCISE OF AUTHORITY.—The special commit-
11	tee may exercise all of the powers and responsibilities of
12	a committee under rule XXVI of the Standing Rules of
13	the Senate and section 705 of the Ethics in Government
14	Act of 1978, including the following:
15	(1) SUBPOENA POWERS.—To issue subpoenas
16	or orders for the attendance of witnesses or for the
17	production of documentary or physical evidence be-
18	fore the special committee. A subpoena or order may
19	be authorized by the special committee or by the
20	chairman with the agreement of the ranking mem-
21	ber, and may be issued by the chairman or any other
22	member of the special committee designated by the

chairman, and may be served by any person des-

ignated by the chairman or the authorized member

anywhere within or outside of the borders of the

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1	United States to the full extent permitted by law.
2	The chairman, or any other member of the special
3	committee, is authorized to administer oaths to any
4	witnesses appearing before the special committee. If
5	a return on a subpoena or order for the production
6	of documentary or physical evidence is incomplete or
7	accompanied by an objection, the chairman (in con-
8	sultation with the ranking member) may convene a
9	meeting or hearing to determine the adequacy of the
10	return and to rule on the objection. At a meeting or
11	hearing on such a return, one member of the special
12	committee shall constitute a quorum. The special
13	committee shall not initiate procedures leading to
14	civil or criminal enforcement of a subpoena unless
15	the person or entity to whom the subpoena is di-
16	rected refuses to produce the required documentary
17	or physical evidence after having been ordered and
18	directed to do so.

(2) COMPENSATION AUTHORITY.—To employ and fix the compensation of such clerical, investigatory, legal, technical, and other assistants as the special committee, or the chairman or the ranking member, considers necessary or appropriate.

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- (3) MEETINGS.—To sit and act at any time or place during sessions, recesses, and adjournment periods of the Senate.
- (4) HEARINGS.—To hold hearings, take testimony under oath, and receive documentary or physical evidence relating to the matters and questions it is authorized to investigate or study. Unless the chairman and the ranking member otherwise agree. the questioning of a witness or a panel of witnesses at a hearing shall be limited to one initial 30-minute turn each for the chairman and the ranking member, or their designees, including majority and minority staff, and thereafter to 10-minute turns by each member of the special committee if 5 or more members are present, and to 15-minute turns by each member of the special committee if fewer than 5 members are present. A member may be permitted further questions of the witness or panel of witnesses, either by using time that another member then present at the hearing has yielded for that purpose during the vielding member's turn, or by using time allotted after all members have been given an opportunity to question the witness or panel of witnesses. At all times, unless the chairman and the ranking member otherwise agree, the questioning

shall alternate back and forth between members of the majority party and members of the minority party. In their discretion, the chairman and the ranking member, respectively, may designate major-ity or minority staff to question a witness or a panel of witnesses at a hearing during time yielded by a member of the chairman's or the ranking member's party then present at the hearing for his or her turn.

- (5) TESTIMONY OF WITNESSES.—To require by subpoena or order the attendance, as a witness before the special committee or at a deposition, of any person who may have knowledge or information concerning any of the matters that the special committee is authorized to investigate and study.
- (6) IMMUNITY.—To grant a witness immunity under sections 6002 and 6005 of title 18, United States Code, provided that the independent counsel has not informed the special committee in writing that immunizing the witness would interfere with the ability of the independent counsel successfully to prosecute criminal violations. Not later than 10 days before the special committee seeks a Federal court order for a grant of immunity by the special committee, the Senate Legal Counsel shall cause to be de-

livered to the independent counsel a written request asking the independent counsel promptly to inform the special committee in writing if, in the judgment of the independent counsel, the grant of immunity would interfere with the ability of the independent counsel successfully to prosecute criminal violations. The Senate Legal Counsel's written request of the independent counsel required by this paragraph shall be in addition to all notice requirements set forth in sections 6002 and 6005 of title 18, United States Code.

other testimony under oath anywhere within the United States, to issue orders that require witnesses to answer written interrogatories under oath, and to make application for the issuance of letters rogatory. All depositions shall be conducted jointly by majority and minority staff of the special committee. A witness at a deposition shall be examined upon oath administered by a member of the special committee or an individual authorized by local law to administer oaths, and a complete transcription or electronic recording of the deposition shall be made. Questions shall be propounded first by majority staff of the special committee and then by minority staff of the

special committee. Any subsequent round of ques-
tioning shall proceed in the same order. Objections
by the witness as to the form of questions shall be
noted for the record. If a witness objects to a ques-
tion and refuses to answer on the basis of relevance
or privilege, the special committee staff may proceed
with the deposition, or may, at that time or at a
subsequent time, seek a ruling on the objection from
the chairman. If the chairman overrules the objec-
tion, the chairman may order and direct the witness
to answer the question, but the special committee
shall not initiate procedures leading to civil or crimi-
nal enforcement unless the witness refuses to answer
after having been ordered and directed to answer.

- (8) Delegations to staff.—To issue commissions and to notice depositions for staff members to examine witnesses and to receive evidence under oath administered by an individual authorized by local law to administer oaths. The special committee, or the chairman with the concurrence of the ranking member, may delegate to designated staff members of the special committee the power to issue deposition notices authorized pursuant to this paragraph.
- (9) Information from other sources.—To require by subpoena or order—

1	(A) any department, agency, entity, officer,
2	or employee of the United States Government;
3	(B) any person or entity purporting to act
4	under color or authority of State or local law;
5	or
6	(C) any private person, firm, corporation,
7	partnership, or other organization;
8	to produce for consideration by the special commit-
9	tee or for use as evidence in the investigation, study,
0	or hearings of the special committee, any book,
1	check, canceled check, correspondence, communica-
2	tion, document, financial record, paper, physical evi-
13	dence, photograph, record, recording, tape, or any
4	other material relating to any of the matters or
15	questions that the special committee is authorized to
16	investigate and study which any such person or en-
17	tity may possess or control.

- (10) RECOMMENDATIONS TO THE SENATE.—To make to the Senate any recommendations, by report or resolution, including recommendations for criminal or civil enforcement, which the special committee may consider appropriate with respect to—
 - (A) the willful failure or refusal of any person to appear before it, or at a deposition, or

1	to answer interrogatories, in compliance with a
2	subpoena or order;
3	(B) the willful failure or refusal of any
4	person to answer questions or give testimony
5	during the appearance of that person as a wit-
6	ness before the special committee, or at a depo-
7	sition, or in response to interrogatories; or
8	(C) the willful failure or refusal of—
9	(i) any officer or employee of the
10	United States Government;
11	(ii) any person or entity purporting to
12	act under color or authority of State or
13 -	local law; or
14	(iii) any private person, partnership,
15	firm, corporation, or organization;
16	to produce before the special committee, or at
17	a deposition, or at any time or place designated
18	by the committee, any book, check, canceled
19	check, correspondence, communication, docu-
20	ment, financial record, paper, physical evidence,
21	photograph, record, recording, tape, or any
22	other material in compliance with any subpoena
23	or order.

- (11) CONSULTANTS.—To procure the temporary or intermittent services of individual consultants, or organizations thereof.
 - (12) OTHER GOVERNMENT PERSONNEL.—To use, on a reimbursable basis and with the prior consent of the Government department or agency concerned, the services of the personnel of such department or agency.
 - with the prior consent of any member of the Senate or the chairman or the ranking member of any other Senate committee or the chairman or ranking member of any subcommittee of any committee of the Senate, the facilities or services of the appropriate members of the staff of such member of the Senate or other Senate committee or subcommittee, whenever the special committee or the chairman or the ranking member considers that such action is necessary or appropriate to enable the special committee to conduct the investigation, study, and hearings authorized by this resolution.
 - (14) ACCESS TO INFORMATION AND EVI-DENCE.—To permit any members of the special committee, staff director, counsel, or other staff members or consultants designated by the chairman

1	, or the ranking member, access to any data, evidence
2	information, report, analysis, document, or paper-
3	(A) that relates to any of the matters or
4	questions that the special committee is author-
5	ized to investigate or study under this resolu-
6	tion;
7	(B) that is in the custody or under the
8	control of any department, agency, entity, offi-
9	cer, or employee of the United States Govern-
0	ment, including those which have the power
1	under the laws of the United States to inves-
12	tigate any alleged criminal activities or to pros-
13	ecute persons charged with crimes against the
14	United States without regard to the jurisdiction
15	or authority of any other Senate committee or
16	subcommittee; and
17	(C) that will assist the special committee
18	to prepare for or conduct the investigation
19	study, and hearings authorized by this resolu-
20	tion.
21	(15) REPORTS OF VIOLATIONS OF LAW.—To re-
22	port possible violations of any law to appropriate
23	Federal, State, or local authorities.
24	(16) EXPENDITURES.—To expend, to the ex
25	tent that the special committee determines necessary

- and appropriate, any money made available to the special committee by the Senate to carry out this resolution
- 4 (17) TAX RETURN INFORMATION.—To inspect 5 and receive, in accordance with the procedures set 6 forth in sections 6103(f)(3) and 6104(a)(2) of the 7 Internal Revenue Code of 1986, any tax return or tax return information, held by the Secretary of the 8 Treasury, if access to the particular tax-related in-9 formation sought is necessary to the ability of the 10 special committee to carry out section 1(b)(3)(B). 11

12 SEC. 6. PROTECTION OF CONFIDENTIAL INFORMATION.

- 13 (a) NONDISCLOSURE.—No member of the special
 14 committee or the staff of the special committee shall dis15 close, in whole or in part or by way of summary, to any
 16 person other than another member of the special commit17 tee or other staff of the special committee, for any purpose
 18 or in connection with any proceeding, judicial or otherwise,
 19 any testimony taken, including the names of witnesses tes20 tifying, or material presented, in depositions or at closed
 21 hearings, or any confidential materials or information, un22 less authorized by the special committee or the chairman
 23 in concurrence with the ranking member.
- (b) STAFF NONDISCLOSURE AGREEMENT.—All mem-bers of the staff of the special committee with access to

- 1 confidential information within the control of the special
- 2 committee shall, as a condition of employment, agree in
- 3 writing to abide by the conditions of this section and any
- 4 nondisclosure agreement promulgated by the special com-
- 5 mittee that is consistent with this section.

(c) SANCTIONS.—

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- (1) MEMBER SANCTIONS.—The case of any Senator who violates the security procedures of the special committee may be referred to the Select Committee on Ethics of the Senate for investigation and the imposition of sanctions in accordance with the rules of the Senate.
- (2) STAFF SANCTIONS.—Any member of the staff of the special committee who violates the security procedures of the special committee shall immediately be subject to removal from office or employment with the special committee or such other sanction as may be provided in any rule issued by the special committee consistent with section 2(c).
- (d) STAFF DEFINED.—For purposes of this section,the term "staff of the special committee" includes—
- 22 (1) all employees of the special committee;
- 23 (2) all staff designated by the members of the 24 special committee to work on special committee busi-25 ness:

1	(3) all Senate staff assigned to special commit-
2	tee business pursuant to section 5(b)(13);
3	(4) all officers and employees of the Office of
4	Senate Legal Counsel who are requested to work on
5	special committee business; and
6	(5) all detailees and consultants to the special
7	committee.
8	SEC. 7. RELATION TO OTHER INVESTIGATIONS.
9	(a) PURPOSES.—The purposes of this section are—
10	(1) to expedite the thorough conduct of the in-
11	vestigation, study, and hearings authorized by this
12	resolution;
13	(2) to promote efficiency among all the various
14	investigations underway in all branches of the
15	United States Government; and
16	(3) to engender a high degree of confidence on
17	the part of the public regarding the conduct of such
18	investigation, study, and hearings.
19	(b) SPECIAL COMMITTEE ACTIONS.—To carry out
20	the purposes stated in subsection (a), the special commit-
21	tee is encouraged—
22	(1) to obtain relevant information concerning
23	the status of the investigation of the independent
24	counsel, to assist in establishing a hearing schedule
25	for the special committee: and

(2) to coordinate, to the extent practicable, the

2	activities of the special committee with the investiga-
3	tion of the independent counsel.
4	SEC. 8. SALARIES AND EXPENSES.
5	A sum equal to not more than \$950,000 for the pe-
6	riod beginning on the date of adoption of this resolution
7	and ending on February 29, 1996, shall be made available
8	from the contingent fund of the Senate out of the Account
9	for Expenses for Inquiries and Investigations for payment
0	of salaries and other expenses of the special committee
1	under this resolution, which shall include not more than
2	\$750,000 for the procurement of the services of individual
3	consultants or organizations thereof, in accordance with
4	section $5(b)(11)$. Payment of expenses shall be disbursed
.5	upon vouchers approved by the chairman, except that
6	vouchers shall not be required for the disbursement of sal-
7	aries paid at an annual rate.
8	SEC. 9. REPORTS; TERMINATION.
9	(a) Completion of Duties.—
20	(1) IN GENERAL.—The special committee shall
21	make every reasonable effort to complete, not later
22	than February 1, 1996, the investigation, study, and
23	hearings authorized by section 1.
24	(2) EVALUATION OF PROGRESS.—The special
25	committee shall evaluate the progress and status of

the investigation, study, and hearings authorized by section 1 and, not later than January 15, 1996, make recommendations with respect to the authorization of additional funds for a period following February 29, 1996. If the special committee requests the authorization of additional funds for a period following February 29, 1996, the Majority Leader and the Democratic Leader shall meet and determine the appropriate timetable and procedures for the Senate to vote on any such request.

(b) FINAL REPORT.—

- (1) SUBMISSION.—The special committee shall promptly submit a final public report to the Senate of the results of the investigation, study, and hearings conducted by the special committee pursuant to this resolution, together with its findings and any recommendations.
- (2) CONFIDENTIAL INFORMATION.—The final report of the special committee may be accompanied by such confidential annexes as are necessary to protect confidential information.
- (3) CONCLUSION OF BUSINESS.—After submission of its final report, the special committee shall promptly conclude its business and close out its affairs

- 1 (c) RECORDS.—Upon the conclusion of the special
- 2 committee's business and the closing out of its affairs, all
- 3 records, files, documents, and other materials in the pos-
- 4 session, custody, or control of the special committee shall
- 5 remain under the control of the Committee on Banking,
- 6 Housing, and Urban Affairs.
- 7 SEC. 10. COMMITTEE JURISDICTION AND RULE XXV.
- 8 The jurisdiction of the special committee is granted
- 9 pursuant to this resolution, notwithstanding the provisions
- 10 of paragraph 1 of rule XXV of the Standing Rules of the
- 11 Senate relating to the jurisdiction of the standing commit-
- 12 tees of the Senate.



DEPOSITION OF ARNOLD HAWKINS IN RE: S. RES. 120

MONDAY, NOVEMBER 27, 1995

U.S. Senate,
COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS,
SPECIAL COMMITTEE TO INVESTIGATE WHITEWATER
DEVELOPMENT CORPORATION AND RELATED MATTERS,
Washington, DC.

Deposition of ARNOLD HAWKINS, called for examination pursuant to notice of deposition, at 3:10 p.m. in Room 240-A of the Hart Senate Office Building, before PATRICIA A. ZUBER, a Notary Public within and for the District of Columbia, when were present:

VIET D. DINH, Esq.
Majority Associate Special Counsel
GLENN F. IVEY, Esq.
Minority Counsel
U.S. Senate
Committee on Banking, Housing, and Urban Affairs
534 Dirksen Building
Washington, DC 20510
On behalf of the Committee.

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WITNESS	Examination
Arnold Hawkins	
by Mr. Dinh	6

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1 PROCEEDINGS 2 MR. DINH: Mr. Hawkins, my name is Viet 3 Dinh. I'm with the Majority staff of the special 4 committee to investigate Whitewater Development 5 Corporation and related matters. The special committee was created by Senate Resolution 120, which 6 7 created the special committee, as I noted, under the 8 administration of the Senate Banking Committee. 9 Section 1(b)(3)(E) of Senate Resolution 120 10 permits the special committee to conduct an 11 investigation into and public hearings about the 12 sources of funding and the lending practices of 13 Capital Management Services, Incorporated and its 14 supervision and regulation by the Small Business 15 Administration, including any alleged diversion of 16 funds to Whitewater Development Corporation. That, I anticipate, will be the subject 17 matter of today's deposition. As I told you before, 18 19 the deposition will be taken under oath, and a court 20 reporter is present in order to record the questions and answers. You have the right to be represented by 21 22 counsel. Are you represented by counsel, 1 Mr. Hawkins. 2 THE WITNESS: No, I'm not. 3 MR. DINH: And also just for me to state for the record, this deposition is being conducted 4 5 via telephone. Mr. Glenn Ivey and I are on this end 6 of the phone along with the court reporter in 7 Washington, D.C. and Mr. Hawkins is at his home in 8 Atlanta, Georgia. 9 And let me advise you that objections as to 10 the form of the question may be noted for the record 11 and you may refuse to answer a question based on two grounds, privilege or scope, and if you refuse to 12 answer such questions, then the Chairman will 13 14 ultimately decide whether the assertion of privilege 15 and scope is valid or not. Do you have any questions

so far, Mr. Hawkins.

THE WITNESS: No.

MR. DINH: This deposition, as I noted earlier, is conducted in anticipation of public hearings, which are ongoing right now in the Senate. You may be called to testify at those hearings. If you are called to testify at those hearings, then we

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1	Q Okay. So wh	at was your exact title in	
2	1993?		
3	A In 1993 I was	s the regional Inspector	
4	General.		
5		spector General's office	
6		Can you tell me how many	
7		within the Inspector General's	
8	office?	4	
9	A Yes. There a	re three.	
10	Q There are three	ee, and which region were you	
11	the regional Inspector		
12	A The central.		
13	Q And there you	u were operated out of Atlanta	
14	also?	•	
15	A Yes, I was.		
16	Q And how long	g were you the regional	
17	Inspector General?		
18	A Since 1988, s	o it was roughly seven years	
19	that I was in that posit	ion.	
20	Q Okay.		
21	A Prior to that t	ime I was the special agent	
22	in charge of the Atlant		
		8	
1	Q Also with the		
1 2	Q Also with the the SBA?	8	
1 2 3	Q Also with the the SBA? A Uh-huh.	Inspector General's office of	
1 2 3 4	Q Also with the the SBA? A Uh-huh. Q Did there con	Inspector General's office of ne a time that you became	
1 2 3 4 5	Q Also with the the SBA? A Uh-huh. Q Did there con familiar with or became	Inspector General's office of ne a time that you became ne aware of either David Hale or	
1 2 3 4 5 6	Q Also with the the SBA? A Uh-huh. Q Did there con familiar with or became Capital Management S	Inspector General's office of ne a time that you became ne aware of either David Hale or	
1 2 3 4 5 6 7	Q Also with the the SBA? A Uh-huh. Q Did there con familiar with or became Capital Management SA Yes.	Inspector General's office of ne a time that you became ne aware of either David Hale or ervices?	
1 2 3 4 5 6 7 8	Q Also with the the SBA? A Uh-huh. Q Did there con familiar with or becam Capital Management S A Yes. Q Approximatel	Inspector General's office of ne a time that you became ne aware of either David Hale or ervices? y when was the first time you	
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But you were unsuccessful in doing so?

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9 1 That's correct A 2 0 The case file itself was not in the 3 regional Inspector General's office? 4 The field file, which is located in 5 Atlanta, has been destroyed according to the records that I saw. Now, I saw a list of their cases and it 6 was indicated that the file had been destroyed. 7 8 Was this destruction performed as a normal 9 course of business in record management in the 10 office? 11 Α It would have been, yes. 12 0 This procedure was set up prior to -- do you know when this procedure of record destruction 13 14 was instituted? 15 Α No. I do not. 16 Was this procedure present when you were 17 the regional Inspector General? 18 Α Yes, it was. Yes, it was. 19 Can you briefly explain to me what the 20 procedure is and how long the records are retained, 21 and at what point are they designated for 22 destruction? 10 This may have changed because, you know, 1 2 I've been away from there, but generally at that time 3 we maintained -- the official file is maintained in 4 Washington, first of all. So the field file was 5 maintained in the regional office there. At the completion of the case when we got in this particular 6 case, it was referred to the FBI, so once the FBI 7 8 was, we got a final resolution from them, we would go 9 ahead and close the file. Send any original material to Washington for inclusion in that file up there. 10 11 And there should be -- should be -- everything should 12 be documented in the Washington file. 13 Okay. So the regional office file is a 14 duplicate of the Washington file? 15 It's not -- basically, yes. It may not be as complete as the one in Washington, but basically 16 it was used for investigative purposes. 17 18 But you stated earlier that at the close of the investigation, whatever originals you may have 19 20 would be transmitted, it would be transmitted to

Washington for inclusion in the main Washington

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file.

Were there documents -- as a general matter, were there documents retained in the regional office file that were not retained in the Washington file?

A Generally not. The originals should have gone into Washington originally whenever they were received. But occasionally there were instances where there would be originals stuck in the file and copies sent to Washington, but that should have been relatively rare.

Q But when you discover such originals, then you would send them on to Washington at the conclusion of the investigation?

A Correct.

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Q And at the conclusion of the investigation, is that when the regional office file is destroyed according to this procedure?

A Right.

Q You said that there was some records at the SBA office as to the destruction of the records. Do you know when approximately the Capital Management Services file was destroyed under this procedure?

A No, I do not.

Q What records were you referring to in the regional SBA office's files that told you that the file had been destroyed?

A I saw a list of their cases. Basically what I was trying to do was identify the number of the Capital Management file so I could pull the file. And incidentally, I was there at a time when the staff was -- there was only one person in the staff and it was a new man who was really didn't seem to have a good grasp of what was going on.

But I got a list of active cases from the Secretary who's in the audit side that listed their active cases or listed their cases and this was included in there but it was -- the file was indicated to be destroyed and we looked in the file, in the file cabinet itself, and there was no file in there with that number on it.

Q This was included in the list of active cases?

A Well, no, it was not a list of active cases. It was just a list of cases. The fact that

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it was on the list probably indicates that it was destroyed within the last, maybe within this fiscal year. I'm not sure exactly what --

Right, but you saw a list of files and on that list of files there was a listing for Capital Management Services file and it also contained a notation that the file had been destroyed?

That's correct.

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Were there other files on this list with the same notation of having -- of the file having been destroyed?

Α Yes, there were.

Other than attempting to review the file at the SBA, did you talk to anybody else or review any other records in preparation of this deposition?

No, I did not. The only other contact that I had was Steve Marica contacted me prior to your calling the first time and alerted me to the fact that you'd be in contact with me.

Who is Steve Marica?

He's the assistant Inspector General for investigations.

14

He's based in Washington, D.C.? Q

Α In Washington, correct.

Have you had any other discussions with

4 Mr. Marica after my call to you? 5

A No, I have not.

O Have you had any other discussion with anybody else at the SBA?

No.

If I can return your memory back to April of 1993 where you earlier testified that you first became aware of the Capital Management case. Can you tell me the circumstances surrounding your knowledge of the case for the first time?

About the only thing that I recall with regard to the case was that we received a referral. and I'm not sure if it came from our audit staff or the program people in Washington, but we received the referral, obviously it was the SBIC in Little Rock. which was the fact that it was SBIC and the circumstances, which I don't remember the

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particulars, but I made a determination that it was

22 going to be very time-intensive as far as investigative time goes.

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Plus we did not have and do not have or did not have at that time a anyone with investigative presence in Little Rock or in Arkansas, for that matter. So it would have involved assigning someone out of Atlanta to work the case in all probability, and at any rate, the decision was made that we would refer it to the FBI. I think I had some discussions with Washington with regard to it, I'm not sure if it was Marica or Dave Hurd, who is Marica's assistant. At any rate, we made the determination that we'd go ahead and refer it to the FBI for those two reasons.

So did you -- you did not open up an investigation of your own?

That's -- yeah, that's correct. We did -we did open a case file, but we opened it as a FBI referral.

Okay. You basically reviewed the documents contained in the referral from the SBA, and made the determination from that that because of the time intensity and because of your lack of investigative capacity in Little Rock that you would refer the case

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1 directly to FBI? 2

That's correct. Α

Did you do any investigation other than 0 reviewing the case file referred to you from the SBA?

No, we did not. A

You did not conduct any field interviews? Q

Α

0 You did not serve out any document requests?

Α No. I did not.

Do you know approximately what the time lag was between your receipt of the referral from the SBA and your decision to send the case onto the FBI?

It would have been a relatively short period of time. I'm certain it was probably no more than a week.

You stated that you had some discussions with Washington about the decision. Was it your decision to make?

Yes, it was. I believe that there were some discussions with someone in Washington. I'm not even absolutely sure of that.

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- 1 Q But the case was referred to you as the
 2 regional Inspector General for the central region?
 3 A That's correct.
 4 O Did it go directly to you or did it go via
- Q Did it go directly to you or did it go via
 Washington?
 A That I'm not sure about. If you have the
 - A That I'm not sure about. If you have the case file, I think that you can probably tell from the stamp.
- 9 Q After you referred the case to the FBI, did 10 you have further contacts with the FBI in order to 11 follow up on the investigation?
- 12 A Yes, I did. I had probably -- well, 13 basically I contacted them monthly for a period of 14 probably about five months up until, let's see, it 15 would have been the end of April of '95 and -- I'm 16 sorry, April of '94 and the 1st of May I went on 17 leave and I had no further involvement with them,
- 18 with the case at all after that.
- 19 Q 1st of May 1994?
- 20 A Right.

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Q But you were in monthly contact with the FBI on the progress of their investigation prior to

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April of 1994? A That's

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- A That's correct. Basically what we were doing is each month we prepared a significant case summary, and I had included that, this particular case in that summary, so each month I had to give an update on it.
 - Q To whom does this summary get distributed?
- A Well, it goes to the Washington staff, and they compile it into a kind of a report that includes all the field offices or all three central offices and then the complete report goes back to the agents in the field. It was basically an in-house document.

 O But it's just basically the case summary or
- Q But it's just basically the case summary or some work derivative thereof is then distributed among all the agents of the SBA?
- 16 A Yes, at least it goes back to the field 17 offices. Now, the SAC should have been making it 18 available to all the agents.
- 19 Q What was the purpose of a significant case 20 summary?
- A Well, the main reason is to keep everyone abreast as to what was going on and what type of

violations were being investigated by the field 1 2 offices. 3

0 Other than employees of the SBA Inspector General's office, was this report or the case summary made available to anybody else?

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Not that I'm aware of. If it was, it was done, you know, through the Washington office.

Who received those case summaries and then prepared the report from those case summaries?

It's conceivable that they, you know, briefed program people or certain individuals in Washington with regard to it, but none of that was done at the regional level. At this level, at least.

Mr. Hawkins, who was your contact at the FBI for this case?

16 You know, I don't remember. There was one agent that was assigned that my earlier contacts were 17 with, and then I also talked to some, you know, 18 female out there who I think was kind of like a

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20 trainee or something at one time. 21

Does the name Steve Irons ring a bell to 22 you?

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Α Yes, it does.

That was the agent assigned to the case with whom you had the earlier contacts?

Yes, that's it.

0 By early contacts you meant like the contacts from May 1993 through when?

Yeah, I'm not sure that I contacted him that early. I don't believe I did. I think the first contact was probably towards the end of '93.

9 Was there anybody else you talked to at the 10 11 FBI other than the staff intern and Mr. Irons?

12 I don't believe so. I think I talked to the SAC out there one time and that may have been 13 14 Irons, but basically Steve Irons was the one 15 providing the information to us.

> O Were these contacts made by telephone?

Α Yes, they were.

Did you ever meet Mr. Irons in person? 0

19 A No. I did not.

Did you have any other personal contact 20

21 with anybody at the FBI or Department of Justice with

22 respect to this case? A Not that I recall. At one point towards the end of -- I think it's just prior to the time that I left, I think that -- my memory is not real clear about this, but I believe that Mr. Irons told me that the case had been transferred to -- or maybe hadn't been transferred but that in essence what he told me was that he was not going to be able to provide any more information to me and that future contacts should be made to the Department of Justice, someone at the Department of Justice in Washington.

Q Okay.

A And I'm not sure that that person was ever contacted.

Q Okay. Was this around the time of January 1994?

A I think maybe it was a little bit later than that because it seems like it was just prior to the time that I left there.

Q Okay. I want to direct your attention now to the month of August of 1993.

A Okay.

Q This would be sometime in the months right

after you referred the case to the FBI; correct?

A Well, I think the case was referred in April, if I'm not mistaken.

Q Okay. Well, our records indicate that the case was referred from the SBA to the SBA IG on May 5th of 1993, just to give you a guideline as to where we are.

A Okay.

Q And according to your testimony, within a week or two after that was when you referred the case to the FBI?

A Yes.

Q Did you have a conversation with Mr. Irons in the month of August of 1993, to the best of your recollection?

A I don't know. The contact -- you've got a copy of the SBA file, do you not?

Q I do, yes.

A If I do, it should have been -- there should be an indication in there or document in there.

Q Right. It would be documented in something

23 called an administrative inquiry record? 1 2 A Probably, yes. 3 Now, what is an administrative inquiry O 4 record? 5 It's just a record of -- for the most part, Α 6 it's a record of contacts --7 0 Okav. 8 Α -- that we had in normal course of our 9 business. 10 Whenever you have a contact regarding a 0 11 case, you would file one of these inquiry records? 12 Right. 13 0 I have -- because you have not had an 14 opportunity to review the file, I would just describe 15 this document to you. I have an administrative 16 inquiry record dated 8/10/93, and it is stamped. 17 Bates stamped 008, and it's indicated that the 18 interview was conducted by you, A. Hawkins, and 19 length of interview was 20 minutes. The name of the 20 interviewee, I take it, is Steve Irons, title, FBI 21 agent, and the nature of the problem is "I called 22 Irons to see if info IG Hoobler received regarding 24 1 pending indictment was accurate." 2 Do you remember this phone call so far? 3 Very vaguely. 4 0 Hoobler at that time was the Inspector 5 General? 6 Yes, he was. Α 7 I take it from this opening sentence that 8 you had some conversation with Mr. Hoobler prior to 9 placing this call? 10 Yeah, I probably had a conversation with 11 Marica and Hoobler had had a conversation with --12 With Marica? 0 13 With Marica. A 14 Was that your contact in Washington D.C., 15 was Marica? 16 He and Dave Hurd. Most of my dealings were 17 with Dave Hurd.

Either one of those two could have

That's correct. I can't -- I don't

remember what exactly had transpired.

expressed or conveyed Mr. Hoobler's questions to you?

You don't recall the contact with either

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25 1 Hurd or Marica that led to this phone call to Special 2 Agent Irons? 3 Α No. I do not. Did you -- do you remember that in August 4 5 of 1993 you received information regarding pending 6 indictments of Hale? A Well, I don't remember that, but apparently 7 8 we did because of the references made to the 9 information that Hoobler has received. 10 Let me read the rest have your handwritten record here in an effort to refresh your memory. 11 "Again, I called Irons to see if info IG Hoobler 12 received regarding pending indictments was accurate. 13 14 Irons advised that, 1, David Hale, principal owner of Capital Management Services, Inc. would probably be 15 16 indicted in September 1993 on false statement charges in connection with a phony donated capital scheme. 17 18 "2, the anticipated indictment relate to 19 matters on which the statutes will run in September 20 1993. Additional indictment will probably be 21 returned in October or November 1993 on more recent violations. 3, Mark Stephens, SBA OGC was in Little 22 26 Rock and has an affidavit for search warrant that 1 2 Irons prepared which summarizes investigative 3 results. No ROI has been issued." 4 And that's the end of your notations on 5 that inquiry record? 6 Α Yes. 7 Does that refresh your memory regarding the O 8 conversation? 9 Α Somewhat, yes. 10 Do you remember the nature of the call? 11 The circumstances with which you put in this call 12 now, was it after a conversation with Marica or Hurd? 13 I don't remember who the conversation was 14 with and it may have -- what was the date of that 15 again. 16 That was in August 10th, 1993, 17 Mr. Hawkins. But you don't remember how you came to 18 place the call? 19 No, I do not. I feel certain that it would 20 have been as a result of information that was

transmitted to me through the Washington staff. Beyond that, I don't recall. I do recall the fact

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that they were indicting -- they were going to indict 1 2 on part of the counts earlier and hold off on some of 3 the others.

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Right. And this was information you 0 received. And did you subsequently transmit this information back to Washington or to Mr. Hoobler?

The administrative inquiry form would have gone up.

Okay. So this would be your method of O communication to Washington?

In all probability. Now, I may have also -- I may have also verbally told someone, but I did not have any contacts with Hoobler, but I would have told either Marica or Hurd, that's a possibility.

And do you know -- was this a standard request from Mr. Hoobler's office to -- for information regarding pending cases, did you usually get requests from the IG's office regarding specific information on individual cases?

I don't think that it was a request for 20 21 information as much as it was -- I think I was told 22 what he had been told and that I had contact -- and I

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had contacted to verify whether it was in fact true.

Right. Do you remember -- other than the notations that I've just read to you regarding 1, 2, and 3. the three things that Agent Irons advised you, do you remember other specifics of the conversation?

No, I do not.

Let me read you again -- and I apologize for not having the document in front of you. There are some things we have that even technology cannot take care of, and so I will have to read it to you over the telephone lines as such.

That's fine.

Let me read you a document prepared by Special Agent Steven Irons. Apparently they have the same procedures as you do with administrative inquiry record with respect to contacts relating to individual cases --

18 Okav.

19 O -- on the same conversation. And I'll read you the entire document for you and then I will 20 reread the sentences I want you to focus on. 21 22

Okay.

Q So to put it in context, I'll read the entire document.

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To SAC Little Rock from SSA Steve Irons. subject Thomas Anderson and other designations. Date 8/10/93. "On 8/10/93 writer returned a telephone call from Arnold Hawkins, Office of Inspector General Small Business Administration. Hawkins advised that he had been advised by OIG SBA in Washington, D.C. the Little Rock FBI might be charging David Hale soon in captioned matter. He was advised that was correct and there was five SBA employees in the FBI office at that time preparing to close down Hale's company. He asked for details and was told there was an apparent fraud in that assets supposedly donated were returned to the donors after Hale leveraged money at SBA. Hawkins advised that was pretty much what all Small Business Investment Companies, SBICs, did. Hawkins was interested to know if anyone other than Hale would be charged and was advised there might be a lawyer who helped with some paperwork charged unless

"Hawkins asked if there were any reports

investigation revealed he was a dupe.

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available for dissemination and was advised that there were none and none were anticipated. He was further advised the investigation would probably result in a final indictment for the false 1031 statements in late 1993 and then the SBA case would be over. Hawkins advised he regretted there was still no SBA manpower from OIG to assign to the matter, but said he would help in any way needed. He was informed no assistance from OIG was anticipated being necessary."

I want to direct your attention now to two particular sentences. "Hawkins was interested to know if anyone other than Hale would be charged and was advised there may be a lawyer who helped with some paperwork charged unless investigation revealed he was a dupe."

Do you recall if you can tell me what prompted you to inquire as to who the individuals are who would be charged as part of the investigation?

A I don't really recall. I would have been interested to know whether it was, if it was just Hale or if there were other people.

31 1 O Did you have any information that would 2 have lead you to believe that other people were 3 implicated? 4 I don't recall. I don't really recall. 5 I'm not sure, you know, if I knew what was the 6 information that was fed down to me from Washington. 7 It's conceivable that I did or at least have an 8 indication that there might have been more than one. 9 Right. Right. We have as much information 10 as you do. As a matter of fact, that's the purpose 11 of this deposition, is to inquire as to what you 12 know. So you did not have any specific recollection with respect to why you may have been interested in 13 individuals other than Hale who may be indicted? 14 15 Well, like I say, I may have, but at this point in time I don't know what it would have been. 16 Do you know who this lawyer is that 17 18 Mr. Irons was referencing? 19 I do remember that there was some questions 20 about an attorney out there. 21 Q This was an attorney representing Hale? I believe that he -- I believe that he was, 22 32 1 but I can't say that with certainty. 2 0 But he was an Arkansas attorney? 3 I believe so, ves. Α 4 Does the name Richard Mays or Randy Coleman 5 ring a bell to you? 6 What was the first name? Α 7 Richard Mays, M-a-y-s or Randy Coleman, 0 8 C-o-l-e-m-a-n. 9 A Neither name sounds familiar. 10 Did you at one point have knowledge of the 11 identity of this lawyer? 12 I'm not sure. I don't believe that I did, 13 but the information with regard to the attorney came 14 from Steve Irons. 15 O Okav. 16 But I don't believe that I ever had his 17 name. 18 Let me direct your attention now to the 19 next sentence. "Hawkins asked if there were any 20 reports available for dissemination and was advised there were none and none were anticipated." 21

Do you recall this inquiry of Agent Irons?

		33
1	A I do not, but I would you know, had they	
2	issued a report of any type, I would have wanted it.	
3	Q For what purpose would you have	
4	A To update our file.	1
5	Q So when Agent Irons wrote that there were	
6	any reports available for dissemination, did you take	
7	that to mean for dissemination to you?	
8	A Yes.	
9	Q Or were you seeking reports for you to	
10	disseminate to others?	
11	A Oh, no, we were none of this information	
12	would have gone out of the office.	
13	Q It would have been treated as part of the	
14	investigation within the regional office of the IG?	
15	A Right.	
16	Q Would they have been transmitted to	
17	Washington, D.C. office of the IG?	
18	A Yes, it would.	
19	Q But that's not considered dissemination	
20	since it was still being kept in-house within the	
21	IG's office?	
22	A That's correct.	
		34
1	Q And there would have been no reason for you	34
2	Q And there would have been no reason for you to disseminate any information with respect to the	34
2	Q And there would have been no reason for you to disseminate any information with respect to the investigation?	34
2 3 4	Q And there would have been no reason for you to disseminate any information with respect to the investigation? A Well, I'm sorry, say that again.	34
2 3 4 5	Q And there would have been no reason for you to disseminate any information with respect to the investigation? A Well, I'm sorry, say that again. Q And there would have been no need for you	34
2 3 4 5 6	Q And there would have been no reason for you to disseminate any information with respect to the investigation? A Well, I'm sorry, say that again. Q And there would have been no need for you to disseminate any information with respect to the	34
2 3 4 5 6 7	Q And there would have been no reason for you to disseminate any information with respect to the investigation? A Well, I'm sorry, say that again. Q And there would have been no need for you to disseminate any information with respect to the investigation?	34
2 3 4 5 6 7 8	Q And there would have been no reason for you to disseminate any information with respect to the investigation? A Well, I'm sorry, say that again. Q And there would have been no need for you to disseminate any information with respect to the investigation? A Not outside of our office, no.	34
2 3 4 5 6 7 8 9	Q And there would have been no reason for you to disseminate any information with respect to the investigation? A Well, I'm sorry, say that again. Q And there would have been no need for you to disseminate any information with respect to the investigation? A Not outside of our office, no. Q Did you handle any press inquiries	34
2 3 4 5 6 7 8 9	Q And there would have been no reason for you to disseminate any information with respect to the investigation? A Well, I'm sorry, say that again. Q And there would have been no need for you to disseminate any information with respect to the investigation? A Not outside of our office, no. Q Did you handle any press inquiries regarding the case?	34
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2 3 4 5 6 7 8 9 10 11 12 13	Q And there would have been no reason for you to disseminate any information with respect to the investigation? A Well, I'm sorry, say that again. Q And there would have been no need for you to disseminate any information with respect to the investigation? A Not outside of our office, no. Q Did you handle any press inquiries regarding the case? A Oh, no. Q Did anybody else in the IG's office handle press inquiries, to your knowledge?	34
2 3 4 5 6 7 8 9 10 11 12 13 14	Q And there would have been no reason for you to disseminate any information with respect to the investigation? A Well, I'm sorry, say that again. Q And there would have been no need for you to disseminate any information with respect to the investigation? A Not outside of our office, no. Q Did you handle any press inquiries regarding the case? A Oh, no. Q Did anybody else in the IG's office handle press inquiries, to your knowledge? A If they did, I'm unaware of it.	34
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		35
1	know that there were some.	33
2	Q Okay. You had made contact with Mr. Irons?	
3	A Yes.	
4	Q And the purpose of these calls, generally?	
5	A The same as all of them, was periodic	
6	update on the case.	
7	Q Again, for the purpose of filing the case	
8	summaries and then transmitting those to Washington	
9	for the preparation of the report?	
10	A That's correct.	
11	Q Was there any other purpose for you to call	
12	Mr. Irons?	
13	A No, that was basically it. You know, once	
14	we made the referral, it was you know, we were	
15	pretty much out of the picture and the only thing we	
16	were trying to do was stay current on it.	
17	Q And staying current just simply because you	
18	had made the referral?	
19	A That's correct.	
20	Q Because a case file had been opened with	
21	respect to the referral?	
22	A That's correct.	
	A That's contect.	
		36
1	Q And so the information that you would	36
1 2	Q And so the information that you would gather in order to stay current would go into the	36
1 2 3	Q And so the information that you would gather in order to stay current would go into the case file with respect to the investigation that you	36
1 2 3 4	Q And so the information that you would gather in order to stay current would go into the case file with respect to the investigation that you had referred to the FBI?	36
1 2 3 4 5	Q And so the information that you would gather in order to stay current would go into the case file with respect to the investigation that you had referred to the FBI? A That's correct.	36
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À

Right.

Q And the message let me read to you. It says "Capital Management case. Steve, this guy is the regional Inspector General's office. He just wanted to know when the indictment was going, and if we were indicting two attorneys." And there's a notation that says "over," but unfortunately, we do not have the back side of the message slip.

Do you recall leaving this message or any other -- any other for Mr. Irons?

A I don't recall it, no. I do know that I contacted -- I made several contacts out there or several unsuccessful contacts out there.

Q And what was the purpose of your attempt to contact Mr. Irons?

A We were attempting to stay current on the case. That's basically it.

Q And you had been advised earlier that there was an indictment pending?

A I say I guess I would have been, yes. I don't know where the part about the two attorneys came from.

Q Right. Is there any particular reason why

you would have been interested in specifically when the indictment was going to be handed down?

A Well, there was from my standpoint, but I mean, I did not want to be surprised or did not want to be or central office people to be surprised when something under my general supervision occurred. You know, I tried to stay current with anything such as this.

Q And an indictment is a significant enough event that you would have wanted to be apprised of in advance?

A Oh, yes. I mean, if for no other reason I wanted them to know about it from me rather than read about it in the paper, which was not an infrequent occurrence, I might add.

Q But there was -- you don't have any specific knowledge of any particular reasons why you were placing these phone calls in September of 1993?

A No, other than to, you know, to maintain current knowledge of the case.

Q Did you receive any inquiries at the time with respect to the progress of the case from the

1 IG's office in Washington?

A No, I don't think they -- I think all the contacts were made by me.

Q Okay. Again, in an effort to keep them current of the case?

A Right.

Q Now, let me try to delve into your memory a little bit deeper with respect to the subject that you had testified earlier that you did not know where it came from. That is the quotation. He wanted to know when the indictment was going and if we were indicting two attorneys.

Do you know where you -- what was the basis of your question in that regard?

A No, I don't, I'm sorry.

Q Did you have any conversation with anybody else at the IG's office with respect to this case in that time period?

A Well, it sounds kind of like maybe they had heard something and I was trying to verify.

Q "They" being other people in the IG's office?

A In our central office.

Q In your central office in Washington,

3 D.C.?

A Right.

Q You do not know solely -- so it was in the same vein as your August phone call to --

A There might be another thing too. There were a good number of press releases or newspaper articles that we got copies of and it could be that there was a reference in some of those to the attorneys or the question about indictments of one or more attorneys.

Q Do you know -- at the time did you know what the allegations were against these attorneys?

A I don't believe I did. Basically what I knew was what was in the referral and what was told to me by Irons.

Q But have you come to any subsequent knowledge as to what the allegations were against these attorneys?

A I'm unaware of it, so I say no. It's conceivable that I knew something that I have

A I do not. It seems like maybe it was

Q Do you remember the general or the

A Mark Stephens. Couldn't think of his name. It seems like maybe I had a conversation with

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him at one point.

specifics of this conversation?

43 1 immediately following his trip out there. 2 Which would have been in August of 1993? O 3 Α Yes, I guess. 4 0 And do you remember what you talked about? 5 No. I do not. Α 6 0 Did it have to do with the liquidation or 7 the receivership of the company? That's what he was involved in, obviously. 8 9 My interest would have been in with regard to 10 criminal proceedings, though. 11 Did you initiate the phone call or did he 12 contact you? 13 I can't tell you that offhand. Did you get any information from him 14 regarding the criminal investigation? 15 A If I did, I don't remember what it was, but 16 17 it seems like I had contacted him to -- I think maybe 18 I had gotten -- had left some messages for Irons and 19 had not talked to him and I'm not sure exactly what I 20 was trying to find out or what the purpose of it was, 21 but I don't know if he contacted me or I contacted 22 him, but I vaguely recall a conversation with him. 44 1 Is there anybody else in the SBA general 2 counsel's office that worked with Mr. Stephens that 3 you had contact with? 4 I don't believe so. The only one I recall. Α 5 Is Stephens? Q 6 Α Is Stephens. 7 Marty Teckler? 0 8 Α I know his name, and you know, he's been 9 around for a good while. I don't think I had any contacts with him with regard to this case. 10 11 What about Mr. Spotila, the general 12 counsel? 13 Α The name doesn't even sound familiar to me 14 at this point. 15 Did you have any contact with anybody else at the SBA outside of the General Counsel's Office? 16 17 No. Α 18 0 None with Mr. Foren or Mr. Bowles? 19 I'm relatively sure that I did not. Α 20 Okay. Did you have any contact with the 21 White House during the pendency of this

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investigation?

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1 Α Oh, no. 2 MR. DINH: I have nothing further. 3 MR. IVEY: I don't have any questions for 4 you. Thank you for your time here, Mr. Hawkins. 5 MR. DINH: Thank you very much. 6 Mr. Hawkins. 7 (Discussion off the record.) 8 MR. DINH: If you recall anything else regarding this, I hope you will give me or Mr. Ivey a 9 call. You have my phone number? 10 11 THE WITNESS: I do indeed. 12 MR. DINH: Thank you very much. 13 THE WITNESS: I'll call you if there is 14 anything that comes up. MR. DINH: Thank you very much, 15 16 Mr. Hawkins. Enjoy your retirement. THE WITNESS: Thank you very much. 17 18 (Whereupon, at 4:02 p.m., the deposition 19 was concluded.) 20

21 22

ARNOLD HAWKINS

I, PATRICIA A. ZUBER, the officer before whom the foregoing deposition was taken, do hereby certify that the witness whose testimony appears in the foregoing deposition was duly sworn; that the testimony of said witness was taken in shorthand and thereafter reduced to typewriting by me or under my direction; that said deposition is a true record of the testimony given by said witness; that I am neither counsel for, related to, nor employed by any of the parties to the action in which this deposition was taken; and, further, that I am not a relative or employee of any attorney or counsel employed by the parties hereto, nor financially or otherwise interested in the outcome of this action.

Notary Public in and for the District of Columbia

My Commission Expires FEBRUARY 14, 2000



DEPOSITION OF LEX A. DOBBINS IN RE: S. RES. 120

MONDAY, DECEMBER 4, 1995

U.S. Senate,

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS,

SPECIAL COMMITTEE TO INVESTIGATE WHITEWATER

DEVELOPMENT CORPORATION AND RELATED MATTERS,

Washington, DC.

Deposition of LEX A. DOBBINS, called for examination pursuant to notice of deposition, at 12:50 p.m. in Room 428 of the Russell Senate Office Building, before CARMEN BUNCH, a Notary Public within and for the District of Columbia, when were present:

LOUIS J. GICALE, ESQ.
Majority Deputy Special Counsel
LANCE COLE, ESQ.
Minority Deputy Special Counsel
U.S. Senate
Committee on Banking, Housing, and Urban Affairs
534 Dirksen Building
Washington, DC 20510
On behalf of the Committee.

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3 1 PROCEEDINGS 2 Whereupon, 3 LEX A. DOBBINS 4 was called as a witness and, having first been duly 5 sworn, was examined and testified as follows: 6 **EXAMINATION** 7 BY MR. GICALE: 8 Could you please state your name for the 9 record? 10 A Lex Alan Dobbins. 11 12 13 Your present business address? Q Saline County Health Department, 301 East 14 A 15 McNeil. 16 Q McNeil Street? Uh-huh, Benton, Arkansas 72015. 17 Α What is your business phone number there? 18 0 19 Α 847-2811, area code 501. What is your position at the Saline County 20 0 21 Health Department? 22 I'm a sanitarian, employee of the State 4 1 Health Department. 2 What are your duties as a sanitarian? 3 Oh, they're basically inspectional duties 4 in the area of food service and on-site sewage 5 disposal and certain areas of environmental 6 compliance. 7 How long have you been employed as a sanitarian with the Saline County Health Department? 8 Well, I've been with the Arkansas 9 10 Department of Health for 24 years, and I've been at 11 the Saline County Health Department about 12 years. 12 Do you know the month and year that you 13 started at the Saline County Health Department? It was either -- no, it was either '82 or 14 15 '83. It was just a transfer from the state Health 16 Department. 17 Now, just to clarify something, you are an employee of the state Health Department working at 18 19 the Saline County Health Department? 20 All sanitarians are state employees of the 21 Health Department assigned to local health units or

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the central office, depending.

Also a test in your supervisory capacity?

There was no test when I went from

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Yes.

sanitarian to sanitarian supervisor.

7 Is there one sanitarian for each county? 1 2 Sometimes there are -- there's only one, 3 sometimes there are part-time positions, sometimes there are several positions in a county, depending on 4 5 the workload. 6 O And why is it that you moved from the 7 supervisory position at the Department of Health to 8 the sanitarian position in Saline County? Just got tired of working in the central 9 10 office, looking for a change. Saline County is my home county. 11 12 When you were a supervisor in the main office, who was your immediate supervisor? 13 Neil Glover. 14 And what was his title? 15 0 16 A Program administrator. 17 0 And who, in turn, did he report to? Jack Lusby and Bill Teer. Bill Teer is a 18 director of that particular division and Jack Lusby 19 20 held that position before Mr. Teer took it over. Who did Teer report to? 21 Q 22 A Jerry Hill. 8 So that I fully understand the chain of 1 2 command, who did Hill report to? 3 Α Tom Butler. 4 Then was it Butler that reported to the 0 5 governor? 6 No, there was a director of the agency. 7 Back at that time it was Ben Saltzman. Mr. Butler 8 was the deputy director, is. MR. COLE: What was Mr. Butler's first 9 10 name? 11 THE WITNESS: Tom. 12 BY MR. GICALE: 13 Jerry Hill's title was what? 0 He was a bureau chief, or a bureau 14 Α 15 director. 16 Q And Teer was a director? 17 A Division director. Mr. Dobbins, you brought with you today 18 copies of records from the Health Department related 19 to the issue that we requested you to testify --20 21 Yes. A -- on. And I would ask that after this 22 0

9 deposition, you make available to us these records or 1 2 copies of them so that the Committee can have copies 3 of them. I understand that Mr. Teer has a copy of all of these and when he returns, perhaps we can make 4 5 an arrangement to have him supply them to the Committee. 6 7 I would prefer that we use his because they are duplicates of my file. They were duplicated in 8 9 my office. 10 0 Mr. --11 MR. COLE: I would also just note for the 12 record, Mr. Gicale, that it appears from a quick 13 review of these documents, that they all are within the jurisdiction of our resolution and are 14 responsive, but I would want to have them compared to 15 the subpoena that we sent out to make sure that they 16 17 are all responsive documents before they are produced and become a part of the Committee's record. It 18 appears that they are, but I just wanted to raise 19 20 that issue for the record. 21 MR. GICALE: I believe that's a fair request. I just -- perhaps we can set them aside 22 10 when Mr. Kolinski receives them and make sure they're 1 2 consistent with our request. 3 BY MR. GICALE: 4 Mr. Dobbins, this deposition is being 5 conducted pursuant to Senate Resolution 120. The resolution establishes a Special Committee 6 7 administered by the Banking Committee to conduct an investigation involving Whitewater Development 8 9 Corporation, Madison Guaranty Savings & Loan Association, Capital Management Services, Inc., the 10 11 Arkansas Development Finance Authority and other 12 related matters. 13 Section 1(b)(3) (A) and (B) of Senate Resolution 120 authorizes investigation and public 14 15 hearings into A, the operations, solvency and regulation of Madison Guaranty Savings & Loan 16 Association, and any subsidiary affiliate or other 17 entity owned or controlled by Madison Guaranty 18 19 Savings & Loan Association; B, the activities, investments and tax liability of Whitewater 20 Development Corporation, and as related to Whitewater 21

Development Corporation of its officers, directors

and shareholders. This will be the focus of today's deposition.

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You were requested to testify last week.

This deposition is in advance of public hearing. The hearings are currently ongoing in this month of December and may again occur in early 1996. It is possible you may testify at any upcoming hearing.

We will be asking you a series of questions. You, of course, are testifying under oath. If you don't understand a question let us know and we will rephrase the question.

The stenographer will be preparing a record of questions and answers. The deposition will be treated as Committee confidential until the commencement of the hearings.

Prior to the hearings, you will receive a letter from the Committee telling you that you may come to the Senate to review the transcript of your deposition and make note of any corrections for transcription on an errata sheet.

If you are called to testify at a public hearing, you will be permitted to have a copy of your

deposition transcript four days in advance of your testimony.

Now, I note for the record that you obviously live in Arkansas and with other witnesses from out of town, we have made some arrangements to have those witnesses review those transcripts, and we can make arrangements to do so. We can talk about making arrangements to do so after the deposition.

A That's fine.

Q You may be represented by counsel. I note that you are not represented by counsel here today. Objections to the form of questions will be noted for the record. Counsel may object on grounds of privilege or relevance and the Committee chairman may rule on objections where the witness refuses to answer a question.

Now, at this point, do you have any questions of us?

A No.

Q The three groups of documents that you've brought, folders of documents you've brought to us today, I take it that these are the result of a

1 search you made for documents that you thought would 2 be related to your deposition testimony today? 3 That's correct. A 4 0 Okay. And these are all the documents that 5 you are aware of that would relate to this subject 6 matter? 7 There may be other documents in Α 8 Mr. Butler's office that I do not have, and 9 Mr. Hill's office also. 10 Did you speak to anyone about the substance 0 11 of your testimony today prior to coming to the 12 deposition? 13 Α Yes. 14 O Who? 15 I had an informal meeting with Tom Butler, 16 Jerry Hill and Bill Teer. 17 0 When was that? Oh, let's see. I want to say it was last 18 A 19 Wednesday. I'm not really sure when it was. It 20 wasn't long ago. 21 0 Who called the meeting? 22 I assume Mr. Butler. A 14 1 0 Where was the meeting? 2 Α Mr. Butler's office. 3 In Little Rock? 0 4 Α Yes. 5 0 What did you discuss at the meeting? 6 It was an informal discussion about if we 7 had our documentation and whether or not we were 8 going to bring our documentation. We all agreed at that time that we would. 9 10 How long was the meeting? 0 11 Oh, I'd say about 30 minutes. Α 12 Was there any discussion about the 0 13 substance of what you would be testifying to here 14 today? 15 The gist of the meeting was just try to 16 remember the facts and tell the truth. 17 Was anyone else at the meeting other than 18 Butler, Hill, Teer and yourself? 19 No Α 20 0 Was there anybody there from counsel's office? 21 A 22 No.

15 1 Have you spoken to anyone else about the 2 substance of your testimony here today? 3 I talked with counsel of the Health 4 Department. 5 0 Who was that? 6 A George Harper. 7 When did you speak with him? 0 8 Oh, very short conversation over the Α weekend, he basically stated just tell the truth. 9 Did you speak to anyone else? 10 0 Not that I recall. 11 A 12 Have you been deposed on any prior 0 13 occasions with respect to this issue? 14 Not to this issue. Well, have you been deposed with respect to 15 0 Mr. McDougal? 16 17 A No Well, have you been deposed with respect to 18 19 some related matter? 20 Not a related matter. 21 O Mr. Dobbins, when did you first become involved with Maple Creek Farms and some sewer 22 16 problems that occurred there? 1 2 Well, basically in the spring of 1983, I just happened upon the project. The development was 3 4 underway, roads were cut, a sales office had been 5 established, the materials for laying a public water 6 supply system were on site, and at that point in time 7 I stopped and visited with the parties involved, I 8 believe it was Mr. McDougal and an R.D. Randolph. 9 I asked them what type of development they 10 were anticipating and it was basically your 11 three-acre tract and larger development. This type 12 of development excludes the developer from any preliminary work on determining soil suitability for 13 on-site sewage disposal. We encouraged them at that 14 time to consider community sewer systems or 15 16 community --17 Can you back up for a second? 0 18 Α 19 0 You were just driving in the area? 20 Α Right. 21 O And you saw the project starting?

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A

Right.

Q You saw somebody building something or somebody clearing land?

A They were building roads and there was a sales office already established.

Q And your duties when you came upon that project, what were your duties at that point?

A Well, I basically wanted to stop and visit with the developer to find out what type of development he was doing because there was no community sewer system in the area, and I knew I would have some responsibility if it was going to be a residential development.

Again, they informed me that it would be large tract development, in other words three acres and larger, which falls into a category totally different than what we would call a residential subdivision by the definition of the law.

O And how --

MR. COLE: Is that by statute or by Health Department regulation, if you would permit me to interrupt you, Mr. Gicale?

THE WITNESS: By statute. By the state

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legislature.

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THE WITNESS: Yes. I have a copy of the updated law with me.

BY MR. GICALE:

Q So there's a difference in the manner in which a large tract development is treated versus a residential subdivision?

Well, let me explain it this way. A 8 subdivision by our definition, capsule definition, is 9 any individual who is going to develop a tract of 10 land into three or more tracts, any one of which is 11 less than three acres. That's a residential 12 subdivision. And they have to do certain preliminary 13 studies in order to get the subdivision approved 14 before they can develop the subdivision, whereas a 15 developer who develops three-acre tracts and larger 16 has to do no preliminary soil studies. In Arkansas 17 18 you can sell swamp land three acres at a time, let 19 the buver beware.

Q When you stopped by this property,
 Mr. McDougal and Mr. Randolph told you that this was

22 going to be at least three acres or more, this was a

large tract subdivision?

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Α That's correct.

- That did not require some kind of --0
- Α Preliminary review.
- 0 -- preliminary review. Now, as a result of that conversation, what did you do or what were your responsibilities with respect to those tracts of land?

Well, I was concerned that the area may have some unsuitable soil in it, so in order to prevent the developer from developing smaller tracts --

- Back up for a second. Unsuitable soil for 0 sewage disposal?
 - A On-site sewage disposal.
- And why did you believe it was unsuitable soil for sewage disposal?

I had done some preliminary work out there. As soon as I found the development, I took my post hole diggers and dug some holes throughout the development and could tell that we were in some extremely marginal soils.

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So you had sampled the soil before or after you talked to them?

At the same time -- well, it was probably the same day. As soon as I discussed with them their situation and they told me how much land they had involved, I drove through the development, looked at the situation, made some remedial determinations and was concerned that they may want to develop smaller tracts of land.

I believe they had hired an engineering firm to look into developing smaller tracts.

How did you learn that? 0

Somebody at the sales office, I think, mentioned that to me, it may have been Mr. McDougal, that he had hired -- and I may not be right about the firm, but it seemed like it was Brooks & Curry, engineering firm, was looking into making a higher density development, and I -- my recollection is that I contacted them and informed them that the soils were too marginal to consider smaller tract

21 development.

22 Now, again to go back a step, you said that

21 the initial response was that this was going to be a 1 2 large tract development --3 Α Correct. 4 0 -- versus a smaller residential 5 development, less than three acres? 6 Correct, correct. 7 But at the same time they said to you we 0 8 might pursue a smaller residential, less than 9 three-acre development? 10 That's my best recollection, yes. 11 And the consequences of them pursuing the smaller development, residential development, less 12 13 than three acres, would have been some authorization 14 from your department, I take it? 15 The developer would be allowed to prepare a 16 package indicating a smaller lot development for us to review, but he would be allowed to go in there and 17 hire an engineering firm and do his own -- his own 18 19 studies and present them to me. 20 But before the developer could go ahead and develop that tract of land, the developer needed your 21 department's approval? 22 22 1 Α Correct. 2 0 Correct? 3 Correct. 4 MR. COLE: Just so the record is clear, is 5 the distinction before the developer can take action 6 to develop or is it before he can take action to 7 market it to the public that he must obtain approval 8 from your department? 9 THE WITNESS: He must obtain approval 10 before he develops the actual lots. MR. COLE: By "develop the lots," what do 11 12 you mean? THE WITNESS: The way our regulations are 13 worded, it's construction, no construction shall be 14 done upon any lot until the subdivision has received 15 approval from the state Health Department. We don't 16 address sales, unfortunately. 17 BY MR. GICALE: 18 19 So no construction on any lot until you 20 have approved it? 21 That's correct.

But somebody can sell the lot without you

1 having approved it?

A Potentially. Well, our regulations -- the word "sales," or the sale of residential property, is not mentioned in any of our laws or regulations, so we very strenuously avoid trying to enforce anything regarding the sale of residential lots.

We would assume that we could seek injunctive relief against development if a developer tried to actually develop lots that we hadn't approved.

MR. COLE: But presumably no one can obtain a building permit, whether the developer or a purchaser, without the proper approval from your office; is that correct?

THE WITNESS: They would not be able to obtain a sewage disposal permit. Unfortunately in a lot of the counties, there are no countywide building permit requirements.

BY MR. GICALE:

Q So on the first day that you were at the development and you had this conversation with McDougal and Randolph, one, they indicated to you

that this was going to be large tract development greater than three acres?

A Correct.

Q Two, there was a possibility of some smaller tract development that their engineers were looking into, and as a result, you decided to test the soil?

A Make some preliminary observations.

Q Preliminary observations, and you determined that if they were going to market it -- or develop it small tract, less than three acres, that the soil was of insufficient quality to do what, to have individual septic systems?

A Basically that's correct.

Q So that the result would be that they would have to have some other type of system if they wanted less than three-acre development; correct?

A In my opinion, they would have had to have had a community sewage system, that is centralized collection.

Q Would that hook up to some other community system?

25 Basically in that location, they would have 2 had to have put their own community system in. Now, when did you notify McDougal and 3 Randolph that that was the case? 4 5 I believe I only talked to their 6 engineering firm about that, and I didn't hear anything from either side after I had my conversation 7 with the engineering firm as far as making smaller 8 9 tracts. 10 Was that shortly after you talked to them? 0 11 A Yes. In the spring of '93; correct? 12 0 13 Α Spring and summer of '83. I'm sorry, '83. Now, after you told their 14 0 engineers that that was the case, what was the next 15 thing that happened with respect to that development? 16 17 Well, basically I contacted the state Health Department to see if the engineering 18 department was going to approve their water system. 19 They indicated yes, they had the plans and they were 20 going to approve them, at which time I --21 Well, all right. To go back again, when 22 26 1 you say approve their water system, did they agree 2 with your determination that there needed to be a community water system and therefore they were going 3 to go to the state for approval of a water system? 4 That was already in the works when I came 5 6 upon the project. 7 Q That they were going to have a community 8 water system? 9 Correct. 10 So they agreed with your assessment? MR. COLE: We need to distinguish, I think, 11 between a community water system and a community 12 sewer system, do we not? 13 THE WITNESS: And individual sewage 14 15 system. I have no control over the review and approval of a community water system. That's 16 17 strictly done by division of engineering. And because of the large tract development, they would 18 approve the water system without any input from the 19 local sanitarian regarding soil suitability. 20

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BY MR. GICALE:

Okay. So you had no jurisdiction over that

part of it?

 A None.

Q But you wanted to find out whether or not they were going to get approval for the community water system?

A That's correct, to better understand the position that I was in at that point in time.

Q Well, why was that a concern to you? How did that relate to your community sewer system?

A Well, I was concerned that a lot of the areas had extremely marginal soil. I knew by our laws and regulations that he would be able to sell all of the lots and from a practical standpoint, they could build a house on every lot out there and then come to me and ask me for some type of permit for a sewage disposal system. I felt I was in a pretty tough situation from the beginning.

Q So they could sell the lots, but then when people came to you for a permit, you couldn't give them the permit because the soil wasn't suitable for a septic system?

A Well, we have --

Q Correct?

A Historically we have a very flexible approach if you have large tract development, we'll give you some type of permit if you've got three acres, we will give you some type of sewage disposal permit. Most of these permits were obtained by Madison Financial. Majority of the buyers, in my opinion, did not see copies of the sewage disposal permits that we had issued which had stipulations written on them.

Q All right. But what was the significance of you calling to find out whether or not a community water system had been approved by the Health Department? Why did you want to find that out?

A Well, it would help me understand my position better as far as how I was going to deal with the development. If they're going to get their water approved, I've got a development on my hands and I've got to deal with it.

If they did not approve the water, I would assume they would not have developed the property.

Q So you learned that the state Health

29 1 Department was going to authorize some type of 2 community water system? 3 That's correct. Α 4 Who did you check with to verify that? 0 5 I don't remember who I talked to in the division of engineering. It may have been Tom 6 7 Skinner. 8 Then after you found out that, what did you 0 9 do next with respect to that property? 10 I basically discussed the situation with my 11 superiors, Mr. Glover and Mr. Teer, and we entered 12 into a memorandum of agreement with Madison Financial 13 that the tracts would be a minimum of three acres. 14 That was done strictly to prevent smaller tract 15 development. 16 O And under those circumstances, then, you 17 would approve individual septic systems? 18 Well, we issued permits on the lots, but a 19 lot of our permits had stipulations on them that the 20 soil was marginal, severely limited and the systems may not function properly. It was my position that 21 when the buyer saw a copy of this permit, that the 22 30 1 development -- that the developer would reconsider his options and possibly put in a community sewage 2 3 system. I would like to say that I don't think the 4 buyers were provided copies of those permits. I'm going to show you what's marked for 5 6 identification as Bates number documents DKSN 013437 through 39. This is a letter and an attached 7 8 memorandum of agreement dated June 23, 1983 to Mr. Jim McDougal regarding Maple Creek Estates, 9 10 Saline County, from Lex Dobbins. 11 Is this the letter and memorandum of 12 agreement that you're referring to? 13 Α Yes. 14 0 Does that agreement refer to large tract development? 15 16 Correct, on the memorandum of agreement. 17 0 Which paragraph? Second paragraph, "it is the understanding 18 Α 19 of the Saline County Health Department that all lots 20 contained in Maple Creek Estates are to be a minimum 21 of three acres."

And furthermore, this document indicated

that each lot will be evaluated on individual merit 1 2 with respect to soil suitability?

That's correct.

0 So this is the agreement, a copy of the agreement, then, you reached with Mr. McDougal on behalf of Madison Financial and Maple Creek at that point in time?

Α That's correct.

9 0 What happened subsequent to entering into 10 that agreement?

> Α What do you mean?

12 0 Well, who drew up the agreement?

13 I did Α

> 0 And your signature is on that agreement; correct?

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That's correct. A

Well, subsequent to signing the agreement, 0 what happened with respect to the development?

Well, they sold a substantial number of lots with a very effective advertising campaign. We did note on several of the permits that the soil was severely limited, that the systems may not function.

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1 Now, permits that were issued when buyers 2 purchased the property and then came to you asking for permits? 3 4

Α Buyers never came to me. These --

How was it that you issued permits?

6 Issued them to the developer, Madison 7 Financial, the majority of them were issued to the 8 developer.

How would that work? Would Madison Financial come to you and say we're going to sell lot number 1, please give us a permit on it?

Well, they would hire individuals to submit applications to us for permits, certified individuals like perc testers, let's call them, but they apparently sold the lots and oftentimes would put a mobile home on the lot before they would obtain a permit from us. That's my understanding that the

18 buyers did not see these permits. 19

In my opinion, had the buyers been aware of some of the conditions on the permits, they may not have purchased the property.

But in any event, someone was coming to you

as a representative of Madison Financial as representative of the seller as opposed to the buyer, asking for permits for these pieces of property?

A Madison Financial would hire individuals to prepare applications for the permits, which would be soils analysis and design of system. They would submit that to me, the individual would who did the work.

Q But on behalf of Madison Financial?

A That's correct.

Q Not the purchaser?

A That's correct. In the vast majority of

13 cases.

MR. COLE: Is that the usual practice in Arkansas for that kind of development?

THE WITNESS: That's not unusual. If a developer wants to maintain control of the development, they will oftentimes get it in their name and then give it to the buyer, but they're not required by our law to give it to the buyer since we don't address sales.

BY MR. GICALE:

Q So you would issue a permit to Madison Financial?

A In the majority of cases, yes.

- Q With the understanding that that would attach to the parcel of property that they requested the permit on?
 - A That was my hope.
- Q How many of these did you issue on the property approximately?
- A I would say, and I'm just guessing, I would say in excess of 70 permits.
 - Q And all of them were conditional?
 - A The majority of them were conditional.
- Q In each instance when someone made an application, would you go out and test that particular piece of property to determine whether or not it could be a conditional or unrestricted permit?

A Well, the individual they were using out there to do their percolation test, I had confidence in his ability to evaluate the soils and I didn't conduct -- I conducted pre-site inspections on a lot of them, but on a lot of them I didn't.

1 Q So you relied on the individual that they 2 hired to give you -- relied on him to give you his 3 results?

A That's correct.

Q And based on those results, you made a determination as to whether or not it should be a conditional or unrestricted permit?

A That's correct.

9 Q And the majority of them were conditional 10 permits?

A That's correct.

12 Q And they were all allegedly for three-acre 13 or more plots?

A That's correct.

Q Well, how long a period of time did you issue these permits, over what period of time?

issue these permits, over what period of time?
 A Well, I had the project, I was responsible
 for the project up to 1986. In 1984, I expressed my
 concerns in writing to Mr. McDougal that some systems
 may malfunction. In 1984 Mr. McDougal went into the
 development and created a subdivision that was to be

22 served by a community sewer system. In other words,

a subdivision within the development. At that point in time I contacted Mr. McDougal in writing.

Q Now, did he attempt to obtain your department's approval for such a system?

A Yes, he had got approval. That's how I found it, I think I got some correspondence or found out from the division of engineering that they were going to approve a community sewage system for a portion of the original development.

Of course, these lots in this new development were small lots, substantially smaller than three-acre lots, and they were going to be served by a community sewage system, a centralized collection system.

It was at that point that I contacted Mr. McDougal in writing and informed him or suggested that we provide community sewage to the rest of the development.

Q Why is that?

A Because of the marginal nature of the soils and the potential for malfunction of the individual sewage disposal systems.

So you figured as long as he was going to provide for a portion of the subdivision and there were problems with the rest of the division, the rest of the development, you thought that it would be advisable to have a community system for the entire development?

Well, right. I anticipated that there were going to be problems, and I suggested that he consider centralized collection. He responded --

Would that have been in February of 1984 that you notified him of this?

Α Yes. November of '83 and February of '84, I think.

O I'm going to show you what's marked for identification as DKSN 013440 through 441. It's a letter dated February 21, 1984 to Mr. McDougal regarding Maple Creek Estates from Lex Dobbins, Saline County health unit stationery. Is this the letter that you're referring to, or at least one of the letters you're referring to?

(Witness reviewed the document.)

22 Uh-huh, ves.

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Q And the second to last paragraph, you indicate you would like to reiterate your concern that proper drainage and insulation of the individual sewage disposal system may not be entirely effective and ask that he consider an overall plan of development that would provide public sewage for any area in Maple Creek in which the malfunction of individual sewage disposal systems may occur and thus constitute a public health hazard.

That's correct. I also have a November 10 letter, 1983.

Where you made the same request? 0

Yes, that's the first time that I understood that he was going to provide community sewage to certain areas of Maple Creek.

What was Mr. McDougal's response to that?

17 A Mr. McDougal's response was March 6 of 1984. 18

Did he agree with your suggestion?

His last paragraph in that letter is, "as

you know, we are planning a sewer improvement 22 district to service the remaining property we will

offer for sale. This system will have excess 1 2 capacity as to Maple community service for any area 3 in which individual sewer disposal systems might fail." 4 5 So he notified you that the newly proposed 0 system would have excess capacity and that he would 6 7 make it available in the event that there was some 8 failure on the other part of the development; 9 correct? 10 That's correct. Α But he didn't go so far as to commit to 11 12 hook the other parts of the development up to the 13 system? 14 Well, in a later memorandum of agreement, 15 they agreed to provide sewer to Maple Creek Farms, 16 all lots except the 300 series. 17 O 300 through 340; is that correct? 18 Α That's correct. 19 And I'm going to show you what's marked for 20 identification as DKSN 013288. This is a memorandum 21 signed by Maple Creek Farms and James McDougal along 22 with William Teer dated 4-26-84. Is this the 40 1 memorandum that you're referring to? 2 Α Yes. 3 0 And it's in this memorandum where they 4 agreed to provide sewer system to serve all of Maple 5 Creek Farms except lot 300 to 340? 6 That's correct, and we were to do an 7 evaluation of the 300 series lots to see if they 8 should be included also. 9 Now, why were the 300 series lots excepted 10 at that point in time? 11 A It was at Mr. McDougal's request. 12 But did he indicate why he was excepting 13 those lots at that point? 14 No, I don't remember. 15 MR. COLE: Were those larger lots or the 16 same size? 17 THE WITNESS: All the lots were three and 18 five acres and there may have been several five acre

20 BY MR. GICALE:

tracts in there. I don't remember.

19

So as of April 26, '84, Mr. McDougal has 21 22 now agreed with the exception of those 40 lots to

		41
1	provide a community sewer service	
2	A That's correct.	
3	Q to Maple Creek Farms?	
4	A That's correct.	
5	Q Did that occur?	
6	A No, it did not.	
7	Q What happened subsequent to that agreement?	
8	A Well, there was a lot of correspondence	
9	between the division of engineering and Robert	
10	Holloway, Mr. McDougal's engineer, regarding the	
11	technical specifications. They were just in the	
12	review process of trying to get all of the technical	
13	specifications addressed. And during that time, once	
14	we entered into that '84 agreement, we issued	
15	temporary permits, sewage disposal permits, with the	
16	understanding that these homes would be connected to	
17	community sewage when it became available.	
18	Q Were there time limits on the permits or	
19	were they structured so that they expired when the	
20	system became available?	
21	A There were no time limits. They were	
22	just it would require the property owners to	
		42
1	connect community sewage when it became available.	42
1 2		42
1	connect community sewage when it became available.	42
1 2 3 4	connect community sewage when it became available. Q So the permits shifted from a qualified	42
1 2 3	connect community sewage when it became available. Q So the permits shifted from a qualified permit, basically, to temporary permit?	42
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1 2 3 4 5	connect community sewage when it became available. Q So the permits shifted from a qualified permit, basically, to temporary permit? A Yes. Q And that occurred throughout the balance of	42
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1 2 3 4 5 6 7	connect community sewage when it became available. Q So the permits shifted from a qualified permit, basically, to temporary permit? A Yes. Q And that occurred throughout the balance of '84? A Yes.	42
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- 1 document which I believe is 1984, although the date 2 is difficult to read. It was made public by the 3 House this summer. It's addressed to Bill Teer from 4 Lex Dobbins. Perhaps you have a copy of that letter 5 and you can tell us the date. I believe it's June of 6 1984. Perhaps June 29, 1984? Yes, June 29, 1984. 7 8 0 Now, you wrote that letter: correct? 9 Α That's correct. 10 What was the purpose of notifying Mr. Teer 11 at that point of what had happened at Maple Creek 12 Farms up to that date? 13 Basically it was to indicate some of the 14 lots in which sewer systems were malfunctioning, the 15 individual sewer systems were malfunctioning, some of 16 the problems with the construction methods they were 17 using on the property and some of the site damage 18 that occurred because of that construction. And it 19 also -- this mentioned Mr. McDougal's attempts to put 20 in community sewage systems. 21 Also my last paragraph stated that I would like to meet with Mr. McDougal and his engineers at 22 44 1 the earliest convenience in order to devise a plan 2 that would include an overall drainage plan and a 3 phase-in unit community sewage. 4 So you were continuing at that point to 5 encourage Mr. McDougal and you wanted Mr. Teer, who 6 was a supervisor, his support in urging that 7 Mr. McDougal provide community sewage --That's correct. 8 Α 9 0 -- on that property; correct? 10 Α That's correct. 11 What was the result of your sending this 0 12 letter to Mr. Teer? 13 Let's see. Mr. Teer sent a letter to Jim 14 McDougal on July 2, 1985. 15 That was the next correspondence between 16 Teer and McDougal? 17 I think so. And it basically -- Mr. Teer 18 indicated that it appears at this point that 19 community sewage should be immediately installed as
- 21 Now I'm going to show you what's marked for 22 identification as Dobbins Number 2. It's a letter

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previously agreed.

dated August 9, 1984 to R.D. Randolph, Bruce Watson, 1 2 Willy McIntyre regarding Maple Creek Farms, and this 3 is from you?

A Yes.

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Q With a cc to Jim McDougal and Bill Teer. What was the purpose of this letter?

To make certain corrections on the existing sewage disposal systems, especially the ones that we had noted problems with.

0 That was --

MR. COLE: Mr. Gicale, I don't know if you intentionally omitted them from the chronology, but I do have a couple of letters between the dates of the two you just reviewed that are within the materials.

MR. GICALE: I would not, but I would be

16 happy to have them marked. 17

MR. COLE: Including a letter that I

18 believe Mr. Dobbins referred to to Mr. McDougal from

19 Mr. Teer and a letter then to Mr. Teer from

20 Mr. McDougal, and I think these, which are from the

21 Committee's documents, could be referenced by their

22 Bates number.

BY MR. GICALE:

O I'm going to refer to a document marked for identification as GD 173 through 174. It's a letter dated July 3, 1984 to James McDougal from William Teer. I want to show you this document. Can you identify that document for us?

I have a letter out of sequence that I was reading from to Mr. McDougal from William Teer. That was a July 2, 1985 -- this letter is out of sequence in my file.

In response to your question --

Q So there's no confusion, when you said the next response from Teer was '85, it was not?

Right, that's correct.

14 15 MR. COLE: Maybe we could just recap for 16 the record. There was a June 29, 1984 letter from 17 you, Mr. Dobbins, to Mr. Teer, which has been marked, 18 I believe, as Exhibit 1, and then based on my 19 somewhat cursory review of the documentation, I 20 believe the next letter may be the letter that I

21 handed to Mr. Gicale, which is the July 3, 1984

22 letter to Mr. McDougal from Mr. Teer, which is Bates

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number GD 0173 through 174, and I think that's where
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 2
    we are now in the chronology. If you would take a
 3
    look at that.
 4
            THE WITNESS: That would have been
 5
    Mr. Teer's response.
 6
            MR. COLE: Off the record for a moment?
 7
            MR. GICALE: Yes.
 8
            (Discussion off the record.)
9
            BY MR. GICALE:
            I'm going to show you another document
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11
    that's marked for identification as GD 0176. It's a
12
    letter dated July 17, 1984 to William Teer from James
    McDougal and please identify this letter, and is this
13
    a response to the July 3, '84 letter?
14
15
             I would assume that it is. I don't have
    that in my file.
16
17
        0
             Well, here's the July 3, '84 letter.
18
        Α
             Yes, I would assume that's a response to
19
    it.
             Did you see a copy of this letter when it
20
21
    came back?
22
        A I saw a copy of that one.
                                                            48
             The July 3, '84 letter?
 1
        0
 2
             That's correct.
        Α
 3
             And then did you see the second letter that
        0
 4
    I referred you to?
             The July 17, '84 to Mr. Teer from
 5
 6
    Mr. McDougal?
 7
        0
             Right.
 8
             I haven't seen that one.
9
            MR. COLE: Do you want to take a moment and
10
    review it, Mr. Dobbins, since you haven't seen it?
11
            (Witness reviewed the document.)
            THE WITNESS: That's good enough.
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13
            MR. GICALE: Off the record.
14
            (Discussion off the record.)
15
            BY MR. GICALE:
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        Q Now, in August of 1984, did you become
17
    aware of the fact that Mr. McDougal had hired an
    attorney by the name of Larry Crane with respect to a
18
    prospective purchaser for some property at Maple
19
    Creek Farms who you had talked to?
20
21
             What was the date?
22
        0
             Well, this would have been in August of
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1 1984.

A Mr. Larry Crane came to my office and examined my records on Maple Creek Farms.

Q All right. In what capacity did he come to your office, as an attorney for Mr. McDougal?

A I'm not sure.

Q Well, how did he identify himself?

A As Mr. Crane, Mr. Larry Crane, an attorney.

9 Q Did he tell you why he was there?

A He wanted to see my files.

11 Q Did he explain why he wanted to see your 12 files?

A Not to my recollection.

Q Did you subsequently learn why he wanted to see your files?

A Not to my recollection. We let anybody come in and see our files.

Q Did he ever indicate to you that you had made some representations to a prospective purchaser which caused the purchaser to back out of purchasing a home in Maple Creek subdivision?

A I don't remember if we had that

conversation.

Q Well, did anybody tell you subsequent to that that somebody had made that allegation against you?

A I remember that I was asked about some statements that I had made to some purchasers, but I don't remember who made them.

Q You don't know who you made the statements to or you don't know who told you that you had made the statement?

A Both. I know that I had made some statements to some potential buyers, and I do that in the course of business.

Q What kinds of statements?

A Well, if a buyer was to call me and ask me about Maple Creek Farms, I would give them my opinion, professional opinion.

Q And your opinion during that time period was?

A There are large marginal soils out there and if they obtained a permit from me, it would reflect whether or not it was in an unsuitable soil,

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and if it is in a marginally suitable or unsuitable 1 2 soil, the system is prone to malfunction.

Anything else that you may have said?

I may have had a similar discussion with A another lending institution.

Do you know which one?

7 No. Of course, as a course of business, we advise any individual who intends on purchasing a 8 piece of property to get a permit and review that 9 permit before they purchase it. That's just an 10 advisory situation. We do not require that, of 11 12 course.

13 Now, do you know precisely when it was that O 14 Mr. Crane visited your offices?

15 Well, I have a letter dated August 22, 1984 from Mr. Teer to Mr. Crane, advising him that he 16

17 could examine the records at the state Health

Department and also he could examine the files of the 18

Saline County Health Department if he directs a 19

20 written request to do so.

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So it was pursuant to that letter that Mr. Crane came to visit you?

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Α I believe so.

2 Now, continuing on through the balance of 1984, did anything else happen of significance during 3 4 the balance of that year with respect to that 5 property?

6 I have a letter from James McDougal to Bob 7 Holloway, the engineer for Maple Creek Farms, with references in your letter November 26, 1984 8 concerning your inquiry from the state Health 9 Department when we propose to begin construction of 10 11 the pressure sewer system of Maple Creek Farms.

Of the what sewer system? Is that the community sewer system?

That's correct. "As we agreed in our conversation, subsequent to your letter the earliest practical time to undertake construction is after cessation of the spring rains in 1985. Therefore, it is our intention to begin construction at that time.

Sincerely Jim McDougal." 19

20 Now, were you copied on that letter at that time? 21

Α The division of sanitarian services, that's

Mr. Teer's office, sent me a copy. 1 2 So now at this juncture, this is again 3 November of 1984, is that the date of that letter? 4 Yes, yes. 5 O Did your department then agree that that 6 would be the appropriate time to build this community 7 sewer system? 8 I'm not sure as to what communication. 9 specific communication they had. I know there was an ongoing procedure to get the technical specifications 10 11 approved during that time. 12 Well, was there ever any deadline set on 13 when the community sewer system would be put in 14 place? 15 Not to my knowledge. A 16 0 Just an agreement to put one in? 17 That's my understanding. A 18 So during this time period in '84-85, there 0 were discussions as to specifications and then this 19 20 latest letter refers to possibly putting it in in the 21 spring of 1985; correct? 22 That's correct, that's my understanding. 54 Now, did anything of any significance occur 1 2 in 1985 with respect to the property? 3 Seems like the development was slowing down quite a bit, it was just kind of a wait-and-see on 4 5 both sides I guess you might say. 6 O Both sides, you mean the Health Department or are you talking about potential --7 8 The Health Department and Mr. McDougal. 9 Was there an understanding that he wouldn't 10 continue to develop until this community sewer system 11 was in place? No, we were still going to cooperate with 12 13 Mr. McDougal and issue temporary permits in Maple 14 Creek Farms. 15 0 Well, what was the wait-and-see part of it, 16 then? Well, to get a set of plans, complete 17 plans, reviewed and approved in the division of 18 19 engineering it seems can be a time-consuming process. Complete set of plans for a community sewer 20

Community sewer system, right. There was

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system?

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1	quite a bit of correspondence, I believe, going back	
2	and forth from our engineering department to	
3	Mr. McDougal's engineer during that time.	
4	MR. COLE: But Mr. McDougal had retained an	
5	engineering firm and they were working on the	
6	project?	
7	THE WITNESS: That's correct.	
8	MR. COLE: And consulting with your	
9	department during this period?	
10	THE WITNESS: That's correct.	
11	BY MR. GICALE:	
12	Q So that continued on through 1985?	
13	A That is the best of my recollection, that's	
14	my recollection.	
15	Q Did you have any discussions with McDougal	
16	the balance of '84 or '85 with respect to his	
17	project?	
18	A The only letter would be the July of '85	
19	letter that I mentioned out of sequence earlier.	
20	Q What's the date of that letter again?	
21	A July 2, 1985 to Jim McDougal from Bill	
22	Teer.	
		56
		30
1	Q And what was the purpose of that letter?	30
2	A There were some malfunctioning septic tank	30
2 3	A There were some malfunctioning septic tank systems that had been noted by me, and	30
2 3 4	A There were some malfunctioning septic tank systems that had been noted by me, and Q On individual lots?	30
2 3 4 5	A There were some malfunctioning septic tank systems that had been noted by me, and Q On individual lots? A Yes, and that's when Mr. Teer stated that a	30
2 3 4 5 6	A There were some malfunctioning septic tank systems that had been noted by me, and Q On individual lots? A Yes, and that's when Mr. Teer stated that a community sewer system should be immediately	30
2 3 4 5 6 7	A There were some malfunctioning septic tank systems that had been noted by me, and Q On individual lots? A Yes, and that's when Mr. Teer stated that a community sewer system should be immediately installed as previously agreed.	30
2 3 4 5 6 7 8	A There were some malfunctioning septic tank systems that had been noted by me, and Q On individual lots? A Yes, and that's when Mr. Teer stated that a community sewer system should be immediately	30
2 3 4 5 6 7	A There were some malfunctioning septic tank systems that had been noted by me, and Q On individual lots? A Yes, and that's when Mr. Teer stated that a community sewer system should be immediately installed as previously agreed. Q So now the date of that again is what? A July 2, 1985.	30
2 3 4 5 6 7 8 9	A There were some malfunctioning septic tank systems that had been noted by me, and Q On individual lots? A Yes, and that's when Mr. Teer stated that a community sewer system should be immediately installed as previously agreed. Q So now the date of that again is what? A July 2, 1985. Q So now previously there was no timetable on	30
2 3 4 5 6 7 8 9 10 11	A There were some malfunctioning septic tank systems that had been noted by me, and Q On individual lots? A Yes, and that's when Mr. Teer stated that a community sewer system should be immediately installed as previously agreed. Q So now the date of that again is what? A July 2, 1985. Q So now previously there was no timetable on the system, just an agreement to put one in?	30
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2 3 4 5 6 7 8 9 10 11 12 13 14 15	A There were some malfunctioning septic tank systems that had been noted by me, and Q On individual lots? A Yes, and that's when Mr. Teer stated that a community sewer system should be immediately installed as previously agreed. Q So now the date of that again is what? A July 2, 1985. Q So now previously there was no timetable on the system, just an agreement to put one in? A There never was a timetable, I don't believe. Q But now as of this letter A Well, if we can determine what "immediately	30
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2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19	A There were some malfunctioning septic tank systems that had been noted by me, and Q On individual lots? A Yes, and that's when Mr. Teer stated that a community sewer system should be immediately installed as previously agreed. Q So now the date of that again is what? A July 2, 1985. Q So now previously there was no timetable on the system, just an agreement to put one in? A There never was a timetable, I don't believe. Q But now as of this letter A Well, if we can determine what "immediately installed" is. Q So the letter indicates immediately installed; it doesn't indicate a date? A That's correct.	30

identification as Dobbins Exhibit 3, a letter dated 1 2 July 16, 1985 to Bruce Watson, William McIntyre regarding individual sewage disposal system, lot 3 315. This is from Lex Dobbins. 4 5 Once again, this is a document provided to the House and made public in August of this year. 6 7 Can you identify that letter? 8 Ves 9 Now, is that a letter to representatives of Mr. McDougal about a problem with another sewage 10 disposal system on a separate lot? 11 12 It was on -- I believe it referred to lot 315. That letter is addressing the problem at lot 13 315 is all I can tell you. 14 15 And is there any significance to 315, lot 16 315? 17 It may have been in the process of being Α 18 sold again or --19 MR. GICALE: Off the record for a second. 20 (Discussion off the record.) 21 BY MR. GICALE: 22 I'm going to show you what's marked for Q 58 identification as GD 01884. It's a July 15, '85 1 memorandum to Jim McDougal from Bruce Watson, and I'm 2 3 going to direct your attention to the last paragraph of this memorandum to determine whether or not this 4 refreshes your recollection as to the lots that you 5 had expressed some concern about to McDougal in July 6 of '85 and what the result was with respect to them. 7 (Witness reviewed the document.) 8 9 I doubt if it helped readjust my attitude. Well, specifically what you're referring to 10 is the last paragraph of that memorandum says as 11 follows: "Also last Friday Willy McIntyre called Lex 12 Dobbins' supervisor, J.P. Jones." Now, Mr. Jones was 13 your supervisor in Saline County or in the Health 14 15 Department in Little Rock? He was an area supervisor, my supervisor 16 17 within Saline County. 18 "About two septic tank systems at Maple Creek. Lex had told myself and Willy that the ground 19 was too wet to install a system on lot 76 and also 20 too wet to cover up a system on lot number 642. 21 Subsequently we had a meeting at Maple Creek with 22

59 1 J.P. Jones, Lex, Willy and myself. Jones told us we 2 could install a system on lot 76 and cover up the 3 system on lot 642. I believe the outcome of this 4 meeting helped readjust Lex's attitude towards Maple 5 Creek." 6 Now, were those the two lots that you were 7 referring to earlier that you had a problem with? I had many lots that I referred to in 8 9 earlier correspondence that I had problems with. Well, were those lots in July of 1985 two 10 lots, 76 and 642, that you had a problem with? 11 12 Α What were the lot numbers? 13 O 76 and 642. 14 They weren't mentioned in my July 2, '85 Α 15 letter. 16 Did you ever indicate to them that the 17 ground was too wet to install systems on lot 76 and 642? 18 19 Oh. I must have. Α 20 Did you recall having a meeting at Maple 21 Creek with J.P. Jones, Willy McIntyre and 22 Mr. McDougal with respect to those two lots? 60 1 I don't recall the meeting. 2 Do you recall Jones telling McDougal that 3 he could install a system on lot 76 and cover up the 4 system on lot 642? 5 A I don't recall. 6 MR. COLE: Just so the record is clear, 7 Mr. Gicale, I don't believe Mr. McDougal was at that meeting, I believe it's Mr. Watson who was the author 8 9 of the memorandum. 10 MR. GICALE: I'm sorry, it's true. 11 Mr. Watson. MR. COLE: The way you read it into the 12 13 record indicated Mr. McDougal was present. 14 BY MR. GICALE: 15 Or Mr. Watson, a meeting with Mr. Watson. 16 Do you remember attending a meeting with Mr. Watson 17 on that date? I don't recall that meeting. I'm sure it 18 19 happened, but I don't recall if. 20 Well, do you recall any occasions when 21 Jones came with you to the site and was asked to

review some decisions you made with respect to lots

1 and the property?

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A Mr. Jones had made more than one trip to the property to mediate discussions between Madison Financial and myself and Mr. McIntyre and myself.

Q Well, is it fair to say up to that point and throughout the balance of 1985, that Mr. McDougal or his representatives disagreed from time to time with your decisions with respect to issuing permits on these properties?

A I would say that's a fair statement.

Q Well, do you want to characterize your disagreements with Mr. McDougal and his representatives with respect to this property in '84 and '85?

A Well, I wasn't really pleased with the way the development was going anyway, with the lack of information being given to the buyers, Mr. McIntyre's method of installing sewage disposal systems, the individual sewage disposal systems, I was not pleased with the way he was doing that by installing them in wet soil. However, our regulations do not address

22 wet soil installations. That was strictly based on

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my own experience. I really had no authority to stop one from installing systems in wet soil.

MR. COLE: The problem with the wet soil was the compaction of the soil, heavy equipment on the wet soil then would affect how well the system would function?

THE WITNESS: That's correct.

BY MR. GICALE:

9 Q And you conveyed this to Mr. McDougal or 10 his representatives and you expressed that as a 11 concern to them?

12 Mostly I conveyed it to Mr. McIntyre. I did, in earlier correspondence, express my concerns 13 14 to Mr. Teer, who expressed them to Mr. McDougal. As 15 far as site protection, I did write Mr. McIntyre a 16 letter on June 24 of '85 and indicated to him that 17 the manner in which he was operating out there as an 18 installer may ultimately result in the revocation of 19 his registration as an installer of individual sewage 20 disposal systems.

MR. COLE: This may be in the record, and I apologize if I missed it, but was Mr. McIntyre an

employee of Maple Creek Farms or Madison or an independent contractor working for them?

THE WITNESS: That's a good question. I think Mr. McIntyre was an employee, he was an

installer, septic tank installer, that lived on site and installed the systems for Mr. McDougal.

BY MR. GICALE:

Q He lived at Maple Creek Farms?

A That's correct. As a matter of fact, I had to threaten him to put his own system in.

Q Now, did your supervisor, Mr. Jones, agree with your position on these various properties?

A As far as I was aware, he agreed.

Q Well, the last memo that we showed you, which talks about readjusting your attitude, do you remember him overruling you on some particular systems in July of 1985?

A Based on the correspondence, piece of correspondence you're holding, apparently he did allow them to go forward with the installation and covering the system. I don't remember at that particular point in time if we agreed on that day or

not.

Q I mean, if there was a disagreement like this, would Mr. Jones come back to you and talk to you about it and see whether or not you would change your position on these things?

A Well, Mr. Jones never asked me to change my position. He may have had a difference of opinion, but he never saw a problem with my work out there as far as I know.

Q So it's fair to say you had a number of disagreements with McDougal, his representatives, Mr. McIntyre, with respect to the septic systems that were being put in the property, the quality of them and how this would affect the purchasers of property; correct?

A Well, I had that problem with Mr. McIntyre. I assumed he was the one who was initiating the installation, the actual installation. I don't know if he was doing it directly at Mr. McDougal's request or just as a matter of business.

Q Did anything else of significance happen in

		O.
1	1985 that you recall with respect to this	
2	development, Mr. McDougal and Mr. McIntyre?	
3	A Not that I can recoilect.	
4	Q I'm going to show you what's marked for	
5	identification as document 134 strike that.	
6	DKSN 013414. This is a document dated	
7	January 17, 1986 from Mr. McDougal. It says "state	
8	sanitarian, William Teer, Saline County sanitarian,	
9	Lex Dobbins." I want you to take a look at this and	
10	see if you can identify that, see whether you've ever	
11.	seen a copy of that.	
12	MR. COLE: That's the memorandum that has a	
13	"from" line, but no "to" line, am I correct in my	
14	recollection of that?	
15	MR. GICALE: Right, that's correct.	
16	(Witness reviewed the document.)	
17	THE WITNESS: That's the first time I've	
18	seen that, I believe.	
19	BY MR. GICALE:	
20	Q The third paragraph of that memorandum says	
21	"strict written instructions from Teer to county	
22_	sanitarians to not," and that is underlined, "discuss	
		6
1	our subdivision with our customers." Do you know	
2	what that's about?	
3	A I don't have any direct knowledge.	
4	Q Did you receive any instruction from Teer	
5	to not discuss McDougal's subdivision with customers?	
6	A Not to my recollection.	
7	Q Was he complaining to Teer or any of your	
8	superiors that you were discussing the subdivision	
9		
	with potential customers?	
10	with potential customers? A I don't have any direct knowledge of that.	
11	with potential customers? A I don't have any direct knowledge of that. Q Well, what's your indirect knowledge?	
11 12	with potential customers? A I don't have any direct knowledge of that. Q Well, what's your indirect knowledge? A Indirect knowledge. Hmm. Well, you know,	
11 12 13	with potential customers? A I don't have any direct knowledge of that. Q Well, what's your indirect knowledge? A Indirect knowledge. Hmm. Well, you know, we were ultimately removed from the project in early	
11 12 13 14	with potential customers? A I don't have any direct knowledge of that. Q Well, what's your indirect knowledge? A Indirect knowledge. Hmm. Well, you know, we were ultimately removed from the project in early '86. I think that happened because of	
11 12 13 14 15	with potential customers? A I don't have any direct knowledge of that. Q Well, what's your indirect knowledge? A Indirect knowledge. Hmm. Well, you know, we were ultimately removed from the project in early '86. I think that happened because of Mr. McDougal's concerns that we were conspiring to	
11 12 13 14 15 16	with potential customers? A I don't have any direct knowledge of that. Q Well, what's your indirect knowledge? A Indirect knowledge. Hmm. Well, you know, we were ultimately removed from the project in early '86. I think that happened because of Mr. McDougal's concerns that we were conspiring to regulate him. As a matter of fact, I had discussions	
11 12 13 14 15 16 17	with potential customers? A I don't have any direct knowledge of that. Q Well, what's your indirect knowledge? A Indirect knowledge. Hmm. Well, you know, we were ultimately removed from the project in early '86. I think that happened because of Mr. McDougal's concerns that we were conspiring to regulate him. As a matter of fact, I had discussions with other inspectors who had some projects that	
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11 12 13 14 15 16 17 18 19	with potential customers? A I don't have any direct knowledge of that. Q Well, what's your indirect knowledge? A Indirect knowledge. Hmm. Well, you know, we were ultimately removed from the project in early '86. I think that happened because of Mr. McDougal's concerns that we were conspiring to regulate him. As a matter of fact, I had discussions with other inspectors who had some projects that Mr. McDougal also had, and I think he was aware of that at that point in time.	
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11 12 13 14 15 16 17 18 19	with potential customers? A I don't have any direct knowledge of that. Q Well, what's your indirect knowledge? A Indirect knowledge. Hmm. Well, you know, we were ultimately removed from the project in early '86. I think that happened because of Mr. McDougal's concerns that we were conspiring to regulate him. As a matter of fact, I had discussions with other inspectors who had some projects that Mr. McDougal also had, and I think he was aware of that at that point in time.	

67 1 were having similar difficulties with Mr. McDougal? 2 Well, that we were discussing. I have 3 discussed my project with my co-workers in other 4 counties and they would discuss their projects with 5 me just as a matter of business. 6 Which co-workers are you referring to in 7 which counties and which projects? 8 Lane Townsend. A 9 Which county? Q 10 Α Pulaski. 11 0 Which project? 12 Brittany Point. Α 13 0 And he was having problems with McDougal on 14 septic systems? 15 A I don't know if he was or not. I just 16 was --17 You were discussing it with him? 0 18 A Exchanging information. 19 0 And who else did you discuss it with? I may have discussed it with Tom Jenkins. 20 A 21 Which county was he in? Q White County. That project was Eden Park. 22 A 68 1 Q Was he having problems as well? 2 A I don't know. We just simply --3 Q Discussing the situation? 4 Α Uh-huh, yes. 5 Q Anybody else you discussed it with? 6 Α Oh, my co-worker Bob Stuart. 7 Now, would you have been supervising O 8 Mr. Stuart or was he a sanitarian as well? 9 He was a sanitarian as well. He didn't 10 have anything to do with this project. He had one 11 half the county and I had the other half. 12 I'm going to show you what's marked for 13 identification as DKSN 013436. This appears to be 14 some kind of a summary that you prepared for the 15 period 9-1-85 through 2-14-86, and the title of this 16 document is "conferences and discussions concerning 17 Maple Creek Farms." Can you take a look at that. 18 (Witness reviewed the document.) 19 I would consider that a partial record of 20 conferences and discussions. I'm sure I had more 21 than that. 22 0 Who requested you to prepare that, if you

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1
    know?
 2
             I don't remember.
 3
        0
             I'm going to show you another document
 4
    marked for identification as GD 0188, a document
 5
    again provided to our Committee and the House, it is
 6
    dated February 20, 1986. It's from Bruce Watson to
 7
    Jim McDougal regarding a call that Watson apparently
    received from you on February 19, '86. Can you
 8
 9
    review this for a moment and see whether or not it
10
    refreshes your recollection with respect to that
11
    call.
12
            (Witness reviewed the document.)
13
        Α
             I don't remember specifically.
14
             So you don't remember any discussion about
15
    that specific lot or lot 641?
16
             Oh, I'm sure the discussion took place, but
17
    I don't recall it. I'm saying that based on that
    piece of correspondence you have. We had many frank
18
19
    discussions out there.
20
        O What is the next significant event that you
21
    recall occurring in early 1986?
22
             Well, the most significant I guess would be
 1
    being removed from the project.
 2
            How was it you came to be removed from the
 3
    project?
 4
             I forgot who called me from the central
 5
    office, but all three inspectors were called in and
 6
    we met with the people in the meeting were Bill
 7
    Teer --
 8
             First of all, who were the three inspectors
 9
    that were called in?
10
             Lane Townsend, Tom Jenkins and myself.
11
    Mr. Hill and Mr. Butler had called us in.
12
            MR. COLE: I'm sorry, so you met with Teer,
13
    Hill and Butler?
14
            THE WITNESS: Mr. Teer was at the meeting.
15
    Mr. Hill and Mr. Butler basically chaired the
16
    meeting. Mr. Teer was at it, at the meeting, his
17
    associate Mr. Jim Shelby was at the meeting. Another
18
    bureau director, Mr. Jim Mills was at the meeting,
19
    and they basically -- Mr. Hill and Mr. Butler thanked
20
    us for doing a good job and informed us that we were
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going to be removed from the projects and new

sanitarians would be assigned to the projects.

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	71
1	BY MR. GICALE:
2	Q Do you know what the date of this meeting
3	was?
4	A Well, the memo of transfer of
5	responsibility is March 11, 1986, and I would say it
6	was either that day or right before that. It seems
7	like after the meeting we had we went down and
8	prepared this document. I helped Mr. Shelby prepare
9	this document.
10	Q I'm going to show you what's marked for
11	identification as document Bates numbered DKSN 013281
12	through 282. This is a memorandum to Tom Butler
13	through Bill Teer from Jim Shelby dated March 11, '86
14	regarding transfer of all documents and
15	responsibilities regarding Maple Creek Farms,
16	Brittany Point and Eden Park.
17	A Yes.
18	Q Is that the memorandum notifying
19	A That was the memorandum that made the
20	transfers official.
21	Q Now, did they tell you why you were being
22	transferred?
1	A Well, I think they basically indicated,
2	Mr. Butler indicated that Mr. McDougal felt that I
3	was harassing him and that there was a personality
4	conflict and that I had probably been in
5	communication with the other inspectors.
6	Q Was Mr. McDougal having problems with the
7	other inspectors as well?
8	A I don't know. My own opinion is I think
9	Mr. McDougal read more into the situation than was
10	really there.
11	Q But it was because you had they told you
12	because you had communicated to the other inspectors?
13	A Well, no. Basically it was that there was
14	a personality conflict between myself and
15	Mr. McDougal, that was a primary factor.
16	MR. COLE: I'm sorry, who told you this,
17	Mr. Dobbins?
18	THE WITNESS: Mr. Butler.
19	
	MR. COLE: Was that at the time you were
20 21	MR. COLE: Was that at the time you were transferred or was it at some subsequent time?

transferred.

1 MR. COLE: Was this during the meeting that 2 you described earlier? 3 THE WITNESS: Yes. Mr. McDougal had gone 4 to the governor's office or asked for a meeting at 5 the governor's office and Mr. Hill and Mr. Butler and 6 Dr. Saltzman attended that meeting and that's where 7 Mr. McDougal expressed his concerns about my 8 activities 9 BY MR. GICALE: 10 Q Did you know the date of the meeting at the 11 governor's office? 12 No. It would have been just before this memorandum of transfer, but Mr. McDougal could have 13 14 affected the same transfer without going to the 15 governor's office. It was standard operating 16 procedure any time a developer complained to the 17 state Health Department about unfair treatment, the 18 sanitarian would be reassigned. Standard operating 19 procedure. 20 0 So whether it was justified or it wasn't? 21 That's correct. The agency had an 22 attitude, not that I agree with it, and they will 74 1 tell you that I don't, that any time they had a 2 situation like that, they would always try to correct 3 what they called the level playing field to show no 4 bias in the way we regulated the developers. 5 Standard procedure. 6 So --O 7 MR. COLE: I'm sorry. 8 BY MR. GICALE: 9 So if a developer complained, so if the 10 developer wanted to remove Lex Dobbins, all they had 11 to do was go to the Health Department and say remove 12 Lex Dobbins and the Health department would do that? 13 A That's correct. 14 MR. COLE: Was that a formal policy in 15 writing or was that just a practice developed over 16 time? 17 THE WITNESS: It was the practice at that 18 time. And over the years I have used every 19 opportunity that I have had to express my concerns of 20 doing that kind of thing. We have a new director 21 now, Dr. Sandra Nichols, and she has stated that that

will not be done anymore in so many words.

		7.
1	BY MR. GICALE:	
2	Q Well, supposing a new sanitarian was	
3	appointed and the developer didn't like that	
4	sanitarian, could the developer then continue to veto	
5	the sanitarian that was on the project until they got	
6	one that they wanted to work with?	
7	A In that period of time back then, that was	
8	pretty standard. Now I think there's more of a	
9	concern for the employees who are on the regulatory	
10	end of the Health Department, not to treat them in	
11	that manner.	
12	Q But at that point in time	
13	A At that point in time, it was pretty	
14	standard.	
15	Q if they said Dobbins is off and Mr. X is	
16	in, and if the developer didn't like the Dobbins	
17	successor Mr. X, the developer could say I don't like	
18	X either, give me Y?	
19	A That's correct.	
20	Q Or give me Z?	
21	A That's correct.	
22	Q Could the developer pick the sanitarian	
		70
1	that they wanted on the project?	
2	A Well, I'm not aware that a developer has	
3	ever picked a sanitarian. I know that they have gone	
4	through in the past	
5	Q Lists of people until they got one they	
6	were satisfied with?	
7	A Basically.	
8	MR. COLE: Do these kind of disputes come	
9	up frequently?	
10	THE WITNESS: Well, they came up more than	
11	once. They would come up off and on.	
12	MR. COLE: So there was an established	
13	practice of the nature that you've described, of	
14	automatically essentially replacing inspectors when a	
15	problem arose with the developer?	
16	THE WITNESS: That's correct, that's	
	BY MR. GICALE:	
17	HV MR GILALE	
17 18		
17 18 19	Q The meeting strike that.	
17 18 19 20	Q The meeting strike that. Off the record.	
17 18 19	Q The meeting strike that.	

- 1 Based on some records we have here, we 2 believe that the meeting may have occurred on or 3 about March 4, 1986. Do you know whether or not that 4 was the date that the meeting occurred with the 5 governor? 6 Α No. I don't. 7 Were you told in advance of the meeting 8 that occurred with the governor that Mr. McDougal 9 would be meeting with Butler and Teer and Saltzman 10 and others to discuss McDougal's concerns? 11 Α No. 12 O You only found out about it --13 Α The day we were transferred. 14 0 The day you were transferred. 15 I'm assuming, if my memory serves me, that 16 the March 11 memo was the day we were transferred, I 17 think. 18 Did Teer, Hill and Butler tell you what 0 19 occurred in the meeting, what kind of allegations McDougal made in the meeting, what allegations he 20 21 made to the governor about you in the meeting? The only part I really remember is it was a 22 78 conflict in personalities, that Mr. McDougal felt 1 2 that I was treating him unfairly. And Mr. Butler stated that Mr. McDougal said that I had something on 3 4 Mr. Butler and that's why they couldn't control me, 5 which was news to me. 6 Butler told you that McDougal --7 Said that I had something on Mr. Butler and 8 that was part of the reason I was conducting myself 9 in such a manner, but I didn't have anything on 10 Mr. Butler. And Butler claims that Mr. McDougal made 11 12 this allegation to the governor in the meeting? 13 That's correct. 14 Do you know of any other allegations that 15 Mr. McDougal made about you in that meeting with the 16 governor?
- No. 17 Α 18

Now, prior to the time you were transferred from this assignment and reassigned from this matter,

20 did any of your superiors indicate that they

21 disagreed with your position, various positions at

Maple Creek Farms with respect to the various septic 22

79 systems and permits and the community sewer 1 2 treatment? No, not to my knowledge. 3 A 4 Did they indicate to you prior to your 5 removal that McDougal was complaining to them about your position on the sewer system at Maple Creek 6 Farms and that you should change decisions that you 7 were making or change your conduct? 8 9 A Not to my knowledge. Q Were you keeping your superiors apprised of 10 what was going on with McDougal and the subdivision 11 Maple Creek Farms during '83, '84 and '85? 12 13 A I felt that I was. 14 O Did Mr. McDougal or any of his representatives indicate to you that because he felt 15 he was being treated unfairly or they were being 16 treated unfairly, that he was going to go to the 17 governor to discuss the matter? 18 19 A No. I was quite surprised. . Q Did McDougal or his representatives ever 20 boast about the relationship that McDougal had with 21 22 the governor? 80 Oh, early on I think Mr. Randolph told me 1 2 that they were friends of the governor. How did that come up? 3 I think we were riding in my vehicle or his 4 A 5 looking at the project. 6 Was that in '83, '84 or '85? 7 '83 probably. But they never threatened me with the governor or their relationship with the 8 9 governor in any way. 10 Well, how did it come up that they said 11 that they were friends with the governor? 12 Oh, it was just in normal conversation. 13 Those kind of things don't affect the way I do 14 business, though. 15 Well, I mean, did they just volunteer that 16 they were friends of the governor or did they --17 They just volunteered, in passing, more or 18 less in a passing statement. 19 Well, what would that have had to do with 20 their development or their sewer system? 21 Well, early on, the very first meeting, I

wanted them to put in a community sewer system and

1 discussed that aspect with them. And that was 2 probably a difference of opinion that they had versus 3 what I had as to how the development should be 4 developed, and they -- I don't know why Mr. Randolph 5 did that. 6 0 Why Mr. Randolph --7 Told me they were friends with the 8 governor. 9 0 But it was after you said you had some 10 problem with their sewer system? 11 No, he told me that early on. He mentioned 12 early on that they were friends with the governor. 13 That was like in the first week or two that I was out 14 there, I think. 15 Okay. But it was early on, in your first 16 meeting with them was when you expressed some concern 17 about the suitability of the soil for development for 18 septic system? 19 I'm sure I expressed it early on. 20 O And so was the reference to the governor 21 before or after you said to them, you've got problems 22 with the soil and septic system? 82 1 It was so long ago, I don't remember. Like 2 I say, they never threatened me with any political 3 avenues. 4 0 So you were surprised --5 Α It wouldn't matter if they did. 6 So you were surprised, then, that a meeting 7 did occur with the governor in '86? 8 Yes, yes, they could have accomplished the 9 same thing by going straight to the Health 10 Department, they didn't have to go to the governor. 11 The decision to remove us would have been the same if 12 Socks had been sitting in the chair. 13 Do you know the governor or did you know the then-Governor Clinton? 14 15 No, not personally. Never met the man. 16 0 Did you know McDougal before this? 17 No. Α 18 MR. COLE: Had you had prior dealings with 19 Mr. McIntyre? 20 THE WITNESS: Yes, he was an installer in 21 Saline County, and I worked with him on some other

22

projects.

	83					
1	MR. COLE: Had you had problems with him in					
2	the past?					
3	THE WITNESS: Not any real big problems.					
4	MR. COLE: Thank you, Mr. Gicale.					
5	BY MR. GICALE:					
6	Q Now, was that the last you had to deal with					
7	that project after you were removed in '86?					
8	A Well, no. The sanitarian that took over					
9	the project.					
10	O Who was that?					
11	*					
12						
13	, ,					
14						
15	County, and this development was close to Grant					
16	County. He later transferred out and took a position					
17	in the state Health Department as program					
18	administrator for the sewage disposal program, at					
19	which time he asked if I would like to resume					
20	responsibility for the project.					
21	Q When was that?					
22	A It would have been in April of 1988.					
22	A it would have been in April of 1766.					
	9.4					
	O McDougal was out of the project by that					
1	Q McDougal was out of the project by that					
1 2	Q McDougal was out of the project by that point in time; correct?					
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1 performance of Madison Financial, we took a tougher 2 stance and would only issue permits in soils that 3 demonstrated adequate suitability for on-site sewage 4 disposal.

5 O Do you recall in January or February, before the meeting McDougal had with the governor. 7 meeting with Tom Butler to see whether or not McDougal's complaints could be resolved? Do you 8 9 recall whether he met with you, Townsend, Jenkins and 10 Teer to discuss the difficulties with McDougal prior to the meeting when he told you that you would be 11 12 reassigned?

No, never had any such meeting prior to being removed.

Do you recall some retired Army colonel who bought some piece of land at Maple Creek who had been complaining about the property and the sewer system?

A What was his name?

I don't have his name at this point. Do you recall of anybody complaining?

21 There was one individual that I remember 22 complaining, I don't remember their names, but they

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had built a swimming pool over part of their sewage disposal system and it was giving them some problems.

Were you ever asked by Butler whether or 3 4 not any of you had had a particular problem or 5 conflict with McDougal? 6

I don't recall Mr. Butler ever asking.

7 Mr. McDougal and I did have some frank conversations,

8 but --

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9 O What were those conversations and when did 10 you have them?

Well, I just remember one probably halfway through the project, I was concerned that they were building two houses too close together, and I think Mr. Randolph took me down to see Mr. McDougal at the

15 sales office. You could tell Mr. McDougal was

16 somewhat upset. However, we went out there,

17 Mr. McDougal and Mr. Randolph and myself,

18 Mr. McDougal looked at the two houses and said the

19 damn things are too close together, stop

construction. 20

21 0 So you agreed?

22 Yes.

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1	Q When was that, do you recall?					
2	A Early on in the project.					
3	Q Do you know whether it was '83, '84 or '85?					
4	A Not really.					
5	Q And were there any other instances where					
6	you had some disagreement with Mr. McDougal where you					
7	exchanged words with him?					
8	A Not specifically, no, I don't remember any					
9						
10						
11	1 0					
12						
13						
14						
15	A I think he expressed some dismay at signing					
16						
17	Q And the second one was the requirement that					
18						
19	A Right.					
20	Q And attach the lots with certain exceptions					
21	to it; correct? And he expressed dissatisfaction					
22						
22	over that:					
	88					
1	A I think he was not happy signing it. I					
1 2	A I think he was not happy signing it. I believe he was informed by either Mr. Teer or					
1 2 3	A I think he was not happy signing it. I believe he was informed by either Mr. Teer or Mr. Shelby that it's up to him whether he wants to					
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1 understanding at that meeting.

1 2

Q That was signed on April 26, 1984, so that discussion would have occurred then; correct?

A As best as I can recollect.

Q Was there ever a discussion about obtaining a soil scientist from the university to come out and check out the situation?

A I think some soil scientists from the university did go out there.

Q Did that occur prior to you being removed from the project?

A It was probably after I was removed. I'm not sure. I'm not really sure.

Q Do you know whether or not they agreed with your position on these various parcels of property?

A I don't know.

Q Do you know whether or not Mr. Butler told you that at the meeting with the governor, McDougal said that he felt he was being ganged on, that there had been nothing but duplicity and trickery from the Health Department? Do you recall those words being used?

A I don't recall those words specifically being used. Mostly he told me it was a personality conflict, which was a surprise to me.

MR. COLE: Which was a surprise to you?

THE WITNESS: Yes.

BY MR. GICALE:

Q Did they indicate to you, Mr. Butler or anyone else at that meeting -- and again, this is the meeting on the date that you were told that you'd be reassigned -- did they indicate to you that McDougal said that you, Dobbins, had made a concerted effort of intimidation?

A Well, I don't know if I'm that intimidating.

Q But did they indicate that McDougal had stated that to the governor?

A I don't recall.

Q Did they indicate that McDougal told the governor that you had been harassing him and had induced someone to file a lawsuit?

A He may have said something about me harassing him, which would have been a surprise to

me, too. I don't know anything about a lawsuit.

BY MR. GICALE:

Q Now again, the other sanitarians that you had communicated your concerns with, they were also transferred on that same day; correct?

A That's correct.

4 5

Q And other than being reassigned to the project in April of '88, did you have any further involvement with the project between the time you were removed in '86 and April of '88?

A No, not that I remember.

Q Did you have any further conversations with anybody in the department or outside the department with respect to Maple Creek Farms during that time period, '86 to '88?

A Oh, I'm sure I had numerous informal conversations.

Q With whom?

A I wouldn't remember. My co-workers. We all take offense if we're removed from projects on the front lines, and it would just be barracks talk.

Q Your frustration at being removed?

A Sure.

93 1 Did your successor, for instance, come to 2 you requesting any advice or discuss with you 3 anything that happened subsequent between '86 and 4 '88? 5 We didn't have much discussion. I think he 6 tried to enforce the law to the best of his ability. 7 Did you have any further discussions with 8 McDougal or determine whether or not he had had any 9 further discussions with the governor with respect to 10 this? 11 Α No. 12 MR. GICALE: Off the record one minute. 13 (Discussion off the record.) 14 MR. GICALE: I have nothing further at this 15 point. 16 **EXAMINATION** 17 BY MR. COLE: 18 I only have a few questions, Mr. Dobbins, I 19 just want to make sure I understand your testimony correctly. As I understand the situation at the 20 21 Maple Creek development beginning in 1983, there was 22 a problem in that for lots or tracts larger than 94 1 three acres, you essentially had no authority in 2 terms of regulating the kind of sewage disposal that 3 was put in place in those lots; is that correct? Well, I didn't have any authority over the 4 5 sale and development of those lots. I had the 6 responsibility to issue some type of permit, either 7 during the construction or after the fact. It was a 8 difficult position to be in at that point in time. 9 And essentially you were not able to do 10 anything to protect the rights of the purchasers of 11 the lots who might not be aware of problems at the 12 time they purchased the property; is that correct? 13 That's correct. 14 And was that frustrating to you in trying 15 to do your job as a state regulator in looking after 16 the public interest? 17 Α Yes. 18 And as time went forward and the plans for

the development changed to encompass lots smaller

that took place which essentially involved installing

than three acres, you've described the discussions

a community sewage treatment facility; is that

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95 1 correct? 2 Α That's correct. And in the course of those discussions, did 3 0 4 your relations with Mr. McDougal and the persons who were working for him, Mr. Watson and Mr. McIntyre, 5 6 deteriorate over time? 7 Well. I did detect some concerns on their 8 part. We had some very frank discussions. 9 When you say "frank discussions," would it 10 be fair to characterize those as disagreements? 11 A Yes. 12 Between you representing the state and 13 Mr. McDougal or others at the development? Yes. 14 15 0 Had the situation reached the point in 1986 where it was affecting your ability to work with the 16 developers to try and resolve the problems? 17 18 No 19 0 So in your view it had not reached that 20 point? 21 Α No. 22 But in any event, your understanding was 0 96 there came a time that Mr. McDougal requested a 1 2 meeting with the governor and complained about you in 3 particular? 4 That's my understanding. Α 5 With regard to your actions with Maple 6 Creek project; is that correct? 7 That's correct. 8 I believe you further testified that at 9 that time the policy of your department was to 10 reassign inspectors any time a problem or dispute arose with the developer; is that correct? 11 12 That's correct. 13 And was that a process that essentially 14 would have been carried out automatically once a 15 problem came to the attention of your supervisors in 16 the department? 17 It would only be addressed if the developer 18 discussed it with management, upper management. 19 But once the developer brought it to the 20 attention of upper management, the immediate reaction

or the automatic reaction would be to reassign the

inspector and bring a new inspector in?

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FBI agents?

That's correct. And would that have been the case whether or not your supervisors agreed with the position that was taken by the developer in the dispute with the inspector? Α Repeat the question. Yes. My question is, would the reassignment or transfer have taken place regardless of whether or not management in the department agreed with the position of the developer in the dispute? The transfers would have taken place regardless of their opinion. And did anyone in your department or elsewhere in state government ever direct you to give Mr. McDougal any special treatment or lenient treatment? No. Α MR. COLE: I don't have anything further. **EXAMINATION** BY MR. GICALE: Since being removed, other than your 22 co-workers, has anyone from the former governor's --98 Governor Clinton's staff or anybody from the White House ever tried to talk to you about this matter? Not that I can recall. Any representatives of the White House or anybody from the former Governor Clinton's staff? No. I've had a few reporters call me in the last several months, but that's just the media. Have you given statements to anyone else about what happened? Not that I recall. Were you interviewed by people from the 11 0 House? 12 13 No. Α Or your deposition taken by them? 14 0 15 No. The FBI has wanted to meet with me, but they have had scheduling problems. 16 MR. COLE: Were those FBI agents working 17 18 with the Independent Counsel in Little Rock or do you 19 know? THE WITNESS: I don't know. 20 MR. COLE: Were they FBI Little Rock office 21

 I, CARMEN BUNCH , the officer before whom the foregoing deposition was taken, do hereby certify that the witness whose testimony appears in the foregoing deposition was duly sworn; that the testimony of said witness was taken in shorthand and thereafter reduced to typewriting by me or under my direction; that said deposition is a true record of the testimony given by said witness; that I am neither counsel for, related to, nor employed by any of the parties to the action in which this deposition was taken; and, further, that I am not a relative or employee of any attorney or counsel employed by the parties hereto, nor financially or otherwise interested in the outcome of this action.

Notary Public in and for the District of Columbia

My Commission Expires MARCH 14, 1998

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June 29, 1984

Mr. Bill Teer, R.S., Director Division of Sanitarian Services Arkansas Department of Health 8815 West Markham Little Rock, AR 72201

Dear Bill:

I would like to take this opportunity to bring to your attention certain problems that have been encountered concerning the issuance of sewage disposal permits in Maple Creek Farms.

In my letter of February 21, 1984 to Mr. Jim McDougal, it was stressed that adequate and effective drainage be provided in conjunction with the review of sewage disposal applications in the poorly drained areas. Also, during our meeting of April 20, 1984 at Mr. McDougal's office, I presented results of an on-site evaluation conducted on April 13, 1984, of the existing septic tank systems located in the poorly drained areas. The on-site evaluation indicated that lots 4, 10, 203, J, L, P, O and CC were discharging sewage to the ground surface.

I have met on site with Mr. McDougal's engineers, Mr. Bruce Watson and Mr. Bob Holloway, and they agreed that a detailed in-depth drainage plan would improve the operation of the individual sewage disposal systems in the poorly drained areas. I have also been informed by Mr. R. D. Randolph that the existing drive culverts in these areas will have to be reset after the drainage work has been done. I think it would be economically advantageous for the developer if the road ditches were at the proper depth prior to setting the driveway culverts, particularly since many of the culverts have not been installed.

Another area of concern is the construction of homes on lots that have not been evaluated for a suitable disposal site. In my letter of June 23, 1983 to Mr. McDougal, it was suggested that the sewage disposal permit be obtained prior to construction to allow for proper planning of the actual construction of the house plumbing the the sewage disposal system.

In addition, the clearing of lots with heavy equipment during wet soil conditions has caused undue compaction in areas where the absorption fields will be installed. The compaction of the soil will greatly diminish the ability of the absorption fields to function properly. Also, as a result of the rearing process, hugh piles of trees and dirt are being left on the lots. The removal of these piles after the systems have been installed will destroy the absorption fields if removal of the trees requires driving heavy equipment over the absorp-

Letter, Mr. Bill Teer June 29, 1984 Page Two

tion fields. I, therefore suggest that these massive piles be removed prior to installation of the sewage disposal systems.

To further compound the problem of damaged soil, it has come to my attention that large pits used to bury debris from the commercial removal of trees have been constructed throughout the development, thus reducing the availability of suitable disposal sites.

I realize that Mr. McDougal's ultimate goal is to provide community severage to most of the areas in Maple Creek Farms. I think that community sewerage is the best possible solution to the problem of malfunctioning sewage disposal systems and he should be commended for taking such steps.

Also, random observations of the soil conditions on lots 304, 305, 310 and 333 indicate extensive soil mottling and poor drainage. These detrimental characteristics increase the potential for absorption field failures. I would, therefore, tree Mr. McDougal to consider incorporating the 300 series lots into the sewerage plan, especially considering the observations I have noted concerning some of these lots.

I would like to meet with Mr. McDougal and his engineers at their earliest convenience in order to devise a plan of development that will include an overall drainage plan and the phasing in of community sewage.

Very truly yours,

Lex Dobbins, R.S. Saline County Sanitarian

LD:jc

SALINE COUNTY HEALTH UNIT

301 EAST MONEIL STREET
PHONE TO ATT
LITTLE HORA HE HILL
BENTON, ARKANSAS 72015

August 9, 1984

R. D. Randolph Maple Creek Farms

Bruce Watson Maple Creek Farms

Willie McIntyre Maple Creek Farms

SUBJECT: Individual sewage disposal systems, Maple Creek Farms

Gentlemen:

LOT 305

F-15 5E

316

On-site inspections of installed sewage disposal systems at Maple Creek Farms were conducted on August 3, 1984, with the following results:

SYSTEMS DEFICIENT IN CONSTRUCTION PERMIT REQUIREMENTS

LOT D: Installation incomplete. Requirements: Extra fill over absorption field; straw cover; grass seed.

LOT 11: Installation incomplete. Requirements: 1' fill over absorption field; straw cover; grass seed.

LOT 111: Installation incomplete. Requirements: 1' fill over absorption field. Additional recommendations: Straw cover; grass seed.

Color 201: Installation incomplete. Requirements: 1' fill over absorption field; straw cover; grass seed (the fill and straw cover are inadequate on this lot).

: Installation incomplete. Requirements: 1' fill over absorption field. Additional recommendations: Straw cover; grass seed; improve drainage.

Installation incomplete. Requirements: Extra fill over absorption field; straw cover; grass seed. Additional recommendations: Improve drainage.

LOT 333: Installation incomplete. Permit requirements: 1' fill over absorption field; straw cover; grass seed. Additional recommendations:

Improve drainage.

HOUSE

Systems Deficient in Construction Permit Requirements, cont'd.

- LOT 635: Installation incomplete. Requirements: 1' fill over absorption field; straw cover; grass seed.
- 5-15 LOT 641: Installation incomplete. Permit requirements: 1' fill over absorption field; straw cover; grass seed.

SYSTEMS WITH SEASONAL MALFUNCTIONS OBSERVED APRIL 13, 1984

- LOT 0: Recommendations: Improve drainage; 1' fill over absorption field; straw cover; grass seed.
- LOT E: Recommendations: Straw cover; grass seed.
- LOT 203: Recommendations: Improve drainage; 1' fill over absorption field; straw cover; grass seed.
- LOT J: Recommendations: Improve drainage; 1' fill over absorption field; straw cover; grass seed; septic tank "riser".
- LOT P: Recommendations: Improve drainage; 1' fill over absorption field; straw cover; grass seed.
- LOT 1: Recommendations: Improve drainage; 1' fill over absorption field; straw cover; grass seed.
- LOT CO: Recommencations: Strat cover; grass seed.
- LOT 60: Recommendations: Straw cover; grass seec.
- LCT 58: Recommendations: Improve drainage; 1' fill over absorption field; straw cover; grass seed.
- EOT 4: Recommendations: Improve drainage; 1' fill over absorption field; strat cover, grass seed.
- $\frac{\text{LCT 9}}{\text{straw cover; grass seed.}} : \text{ Recommendations: Improve drainage, 1' fill over absorption field;}$
- LCT 10: Recommendations: Improve drainage, 1' fill over absorption field; straw cover; grass seed.

OTHER SEPTIC TANK SYSTEMS

- $\frac{LOT\ 1}{\text{field; straw cover, grass seed.}} = \frac{Recommendations}{\text{field; straw cover, grass seed.}}$
- LOT 115: Recommendations: Extra fill over end of absorption field; straw cover; grass seed.

Other Sentic Tank Systems, contid.

LOT 107: Recommendations: Straw cover; grass seed.

LOT 12: Recommendations: Straw cover; grass seed.

LOT 312: Recommendations: Straw cover; grass seed.

LOT 313: Recommendations: Straw cover; grass seed.

LOT 309: Recommendations: Extra fill over absorption field; straw cover;

grass seed.

LOT 306: Recommendations: Improve drainage; extra fill over absorption

field; straw cover; grass seed.

The purpose of this letter is to provide you with the necessary information regarding requirements and recommendations for the improved operation of individual sewage disposal systems which have been installed.

It is expected that all construction requirements indicated in this letter will be addressed as soon as possible.

This office will cooperate with Maple Creek Farms and the property owners concerning the additional construction recommendations also stated in this letter.

If you have any questions concerning this subject, please do not hesitate to contact my office.

Sincerely.

if a J. Dalelan

Lex Docoins Saline County Sanitarian

LDryko

cc. Jim McDougal, President Madison Financial Corporation P.O. Box 1583 Little Rock, AR 72203

> Eill Teer, Director Division of Sanitatian Services Arkansas Department of Health 4815 W. Harknen

4815 W. Harknes Little Rock, AR 72201

HOUSE

DOBBINS EXHIBIT 3 WAS NOT PROVIDED IN TIME FOR PUBLICATION



DEPOSITION OF MITCHELL F. STANLEY IN RE: S. RES. 120

MONDAY, DECEMBER 4, 1995

U.S. SENATE,
COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS,
SPECIAL COMMITTEE TO INVESTIGATE WHITEWATER
DEVELOPMENT CORPORATION AND RELATED MATTERS,
Washington, DC.

Deposition of MITCHELL F. STANLEY, called for examination pursuant to notice of deposition, at 2:08 p.m. in Room 628 of the Dirksen Senate Office Building, before CINDY L. SEBO, a Notary Public within and for the District of Columbia, when were present:

VIET D. DINH, Esq.
Majority Associate Special Counsel
GLENN F. IVEY, Esq.
Minority Counsel
U.S. Senate
Committee on Banking, Housing, and Urban Affairs
534 Dirksen Building
Washington, DC 20510
On behalf of the Committee.

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PROCEEDINGS
Whereupon,
MITCHELL F. STANLEY
was called as a witness and, having first been duly
sworn, was examined and testified as follows:
EXAMINATION
BY MR. DINH:
Q Mr. Stanley, as you know, my name is Viet
Dinh. I'm with the majority staff of the Senate
Special Committee to investigate Whitewater
Development Corporation.
This deposition is conducted pursuant to
Senate Resolution 120 which is that resolution which
establishes the special committee to be administered
by the Senate Banking Committee to conduct an
investigation into Whitewater Development
Corporation, Madison Guaranty Savings and Loan
Association, Capital Management Services and other
related matters.
Section 1(b)(3)(e) of Resolution 120
authorizes an investigation and public hearings into
the sources of funding and the lending practices of

1 Capital Management Services, Incorporated, and its 2 supervision and regulation by the small business 3 administration including any alleged diversional 4 funds to Whitewater Development Corporation: I 5 anticipate that to be the subject matter of today's 6 deposition.

This deposition is taken in advance of public hearings which are being conducted right now. The special committee has not determined who will be among the witnesses at such hearings including yourself, but you will be notified in advance if we intend to call you at the public hearing.

The stenographer will prepare a record of questions and answers. The deposition transcript will be treated as committee confidential until the commencement of hearing, at that time the record may

be made whole or a part public.

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Prior to the hearings, if you were called to testify, you will receive a letter from the committee telling you that. You can -- you can be provided with a copy of your deposition transcript four days in advance of your testimony for the

limited purpose of preparing yourself for the

testimony at the public hearings.

Probably tomorrow or the next day, whenever the transcript is available, we will send out a letter to you telling you that you can come to the Senate to review the transcript of your testimony here today for the limited purpose again of making

8 any corrections in your testimony.

I should stress that those corrections should be limited to the transcription errors and not to any substance of your testimony. You may be represented by counsel -- as I notice, you are not represented here by counsel.

Objections as to the form of the questions will be noted for the record. If you have any questions about the phrasing of questions, please say SO.

There are two grounds upon which you may refuse to answer, that is, that a particular question is beyond the scope of the committee's jurisdiction under Senate Resolution 120 or that your answer would violate a privilege of some sort. Ultimately the

committee chairman will rule on objections when you refuse to answer a question.

Can you state your full name for the record, please?

A My name is Mitchell F. Stanley.

Q Can you give me your business address?

A It is 655-15th Street, Northwest, Suite 300, Washington, D.C. 20005.

11 Q Can you give me your business 12 phone numbers?

A Business phone number is 202-639-4004.

Q From the time you've had the notice of this deposition through a telephone call from me to you, have you had any conversations with anybody other than your attorneys and your family members about the substance or subject matter that you've been asked to testify about?

21 A No.

Q Have you been interviewed or questioned

under oath by my investigative agency or any individual about the substance of your testimony here about the subject matter about which you are about to testify?

A No. Let me rephrase my earlier answer, I did get a call from Mark Stevens at the SBA inquiring as to whether I -- pursuant to a letter that they received for documents, and again this was when I was in Texas --

Q Right.

A -- whether or not there were any documents in my possession from that time, and as I mentioned to you, I've retained no documents from that time.

Q Okay. Now, you also -- you also received a letter from the special committee --

A Yes.

Q -- from Senator D'Amato requesting all relevant documents?

A Yes, which I got -- which I got in my office this morning.

Q Right. And you told me over the phone that you took no documents with you?

7 Yes. I don't have any documents from that 1 2 time relating to anything pertinent to this inquiry. 3 Right. Just to close out our records, I 4 would request that you respond to that letter in 5 writing to the chairman --6 Sure, okay, I'll do that. 7 0 -- with respect to that, with the 8 representation that you have no such records. 9 Okav. Α 10 Who do you currently work for? 0 I work for the Associates Commercial 11 Α 12 Corporation. 13 What is your position there? 0 14 Vice president, small business financing. A 15 0 And that is a private business? 16 Yes, it's part of Ford Motor Company's 17 Financial Services Group. 18 How long have you been at your present 19 position there? 20 Since October of '94. Α 21 And where were you prior to October 1994? 0 Before that until the time I was employed 22 Α by the SBA, I ran my own financial services 1 consulting practice and company. 2 3 What is the name of that company? O Mercentile Financial Services. 4 Α 5 Is it still an ongoing business entity? 6 It is. It's still operating, although, it 7 is dormant. 8 Okay. You mentioned that you had worked here at the SBA prior to your work at the -- or your 9 own financial services company? 10 11 Right. A 12 When did you leave the SBA? 0 13 I left the SBA in January 22nd, 1993. A 14 Q And what was your position at the time you 15 left? 16 Associate deputy administrator for finance, investment and procurement. 17

Acronym for which is FIB?

Was that your position at the SBA at all

FIB. ADA/FIB.

times prior to your departure? Yes.

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When did you start at the SBA? 0

January of 1990, January the 2nd, in fact, Α

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And just to give us a brief history of your 0 employment and experience prior to 1990, prior to your coming to SBA, can you take a few moments just to recount your history since college and grad school?

Α Sure. From 1987 -- well, let me start, it's much easier if I start in reverse order, otherwise it becomes confused.

However best you can do it.

I graduated from Georgetown University Α Foreign Service School, went into the State

Department and served as an analyst in the economic

15 bureau, foreign services reserve officer, and staved 16

there from 1977 until 1979 and left that and started 17

18 working on the Reagan for President Campaign, worked

19 there, on the campaign during the transition and was 20

special assistant to the counsel to the president at the White House from 1981 to October of '83.

From October of '83 to roughly October of

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'85, I worked in the international trade administration, the Commerce Department.

What was your position there with the international trade?

Financial trade administration, I was an assistant to the assistant secretary. I was then tapped to go upstairs to the secretary's office. I was senior assistant to the secretary of commerce from '85, '87. When he died in '87, I became assistant executive director of the Federal Savings and Loan Insurance Corporation.

I was head -- assistant executive director of the FSLIC from November of '87 till early '89 when I left pending a position as assistant secretary at the Commerce Department which did not come through and -- so then I was looking around for another job and was tapped to go over to SBA.

Let me direct your attention to the time period after the November elections of 1992.

Α Um-hum.

Your position at the time as associate deputy administrator was a political position?

11 1 Yes, um-hum. Α 2 And November of 1992 signaled a change of 0 3 administration? 4 It sure did. 5 And so were you involved at that point in 6 preparing for the transition into the new 7 administration? 8 We were under instructions to -- to assist 9 in a smooth transition. 10 0 Instructions of who? 11 The president, broadly, I mean, they didn't 12 call me and say, Mitch, help them out, but I mean as broadly, and those are words -- instructions we got 13 14 from our own administrator Pat Sikey at the time and we endeavored to do that, such as briefing papers 15 16 were requested or inquiries were made by the 17 transition team or requests for information, 18 generally those were channeled through the front 19 office though. 20 So specific inquiries were made to the SBA? O 21 Α Very much so. And generally briefing papers on the 22 12 1 program that --What they were, new developments. We had 2 3 taken an enormous amount of heat in '92 in which the 4 programs were disparaged and criticized extremely intensively for being political, that they were being 5 6 manipulated by the Republican administration to the 7 benefit of President Bush's reelection. 8 So after that stinging rebuke, we -- you know, we basically thought that there would be a lot 9 10 of interest in these programs, so we, you know, 11 were -- we had a lot of papers in the can. We were -- we generated a lot of briefing papers, you 12 know, readily available. 13 14 In addition to those specifically requested 15 by the transition team? 16 Well, we didn't generate papers. It's hard 17 to get SBA to do anything that is not at gun -- you know, virtually at gun point. So I mean there's not 18 a lot of intellectual curiosity at SBA. So unless 19 you have a specific request, it's very hard to 20

generate momentum to get them to do anything.

Right, right. So in answer to my question,

21 22

Q

these were specific briefing papers that wererequested by the transition team?

A It's my recollection.

4 5

Q Okay. Was there any validity to the public charges against the SBA during the 1992 campaign?

A It was a political -- it was a political rhetoric, that's all it was. We took an extremely serious situation, attempted to ameliorate it and, as such, provided the SBA its first opportunity to demonstrate in a positive sense what it could do, and for that, we were criticized roundly.

Q Let me direct your attention to the period right after the election and specifically to the request for briefing papers and specific inquiries from the transition team.

When was the first of those requests that you are aware of?

A I don't recall specific dates or times. It seems to me that, you know, coincidental with this was the whole issue of new direction for SBA, chances are great opportunity for the agency to, you know, have now somebody who, you know, would -- would

welcome it with open arms.

And, you know, there was a certain level of enthusiasm that finally the message that we had been trying so inadequately to convey might be listened to.

6 Q And I mean enthusiasm within the agency 7 itself?

A Oh, in certain sectors, yes, of the agency.

Q Okay. Now, you said you don't remember specific times or dates, but can you give us an idea, was it within a month of the election?

A It seems to me that there was quite a bit of interest, I'd say between Christmas -- in between Thanksgiving and Christmas, that period of time.

Q Right. And, of course, you left in January 22nd of 1993?

A Right.

Q And since then, you had no other contact with the -- well, you had no official position with the SBA?

A No. Right, I was --

Q Okay. So we're talking about a three-month

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   period between the election --
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Right.

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0 -- and the -- and January? Was this the primary focus of your work at the time at the SBA was preparing for the transition, or were you still continuing on your official responsibilities and duties?

Well, we still were attempting to finish up the work that had not been, you know, stopped, and we attempted to, you know, sort of wrap things up, but things were at a very -- basically the bureaucracy shut down --

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-- and they weren't listening to me, and frankly, you know, it -- let's put it this way, the traditional attitude takes over, you know, throw out the old, you know, kiss up to the new, that type of thing. I mean I don't mean -- don't put kiss up. that's not appropriate, but, you know.

20 So were you fairly successful in your 21 efforts in order to get the briefing papers and the 22 inquiries answered with respect to the inquiries by

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1 the transition team?

2 Pretty much so.

Okay. There was no effort to resist that provision of information in any way?

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0 And approximately -- just to get an idea as to the volume of interest that was generated by the transition team, did you get one general inquiry as to the description of the program? Did you get specific inquiries? Did you get a number of them? Can you describe the volume and substance of the inquiries?

We had a lot of different inquiries because a lot of the areas, my job was basically in charge of all of the credit and functional programs of the agency and, as such, you had the minority contracting.

You had the finance program, the 7A loan program, which is really the biggest credit program at SBA. You have the SBIC program, the surety bond program. You have a whole lot of others, plus the disaster loan program. So there was a lot of, you

know, interest in each of the program areas by 1 2 perhaps different constituencies. 3 Within the transition team. So you 4 received a number of inquiries from different people 5 in the transition team? 6 A No. I never received any inquiries. I 7 would say specifically that I'm on the transition 8 team, call me up. We did have interviews with the 9 transition team --10 0 Okav. 11 -- but any requests for documentation generally came to us via either our own 12 13 administration or the contacts that the hill at that 14 time had with the people in the agency. They

they wanted directly from the source.

Q Right. So you were not the point -- you, yourself, personally --

basically bypassed us and got whatever information

A No.

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Q -- there was no point of contact for the transition team members --

A No.

-- in order to direct any specific --

Q -- in order A No.

O -- requests or inquiries?

A They would not have picked me anyway.

Q And you said that these came from either your own administration or you mentioned earlier the front office, would these be sent -- what do you mean by front office?

A I'm sorry at the administrator's office.

Q The administrator's office.

A But they really weren't, you know -- I don't recall us having a daily meeting in which the transition paper -- team, you know, wants papers on

this, this, this and this.

Q Right.

A There were as a normal process of transition, the line, the agency produces papers and documents on each program.

Q Right.

A I'm sure if you look back on them, they're probably similar to the ones produced in previous administrations for the incoming. You know, it's

19 1 sort of a standard drill now. 2 As a standard briefing paper for particular 3 programs? 4 Α Right. 5 0 Let me direct your attention to a specific 6 program. You mentioned the SBIC program --7 Yes. Α -- is the SSBIC program also considered 8 0 9 under that umbrella? 10 A Yes, that's a subset of the SBIC program. 11 Q And the SBIC program being the small business investment company program? 12 13 Yes. 14 You were in charge of that program in your position? 15 16 I was responsible for it; the day-to-day 17 management of it was Wavne Foren. 18 What was his title at the time? It was associate administrator for 19 A 20 investment. 21 Did you receive any inquiries or requests for briefing papers with respect to the SBIC program? 22 20 1 It seems to me that we -- there was some cause to generate papers about the SBIC program, 2 specifically, you know, when and on what, you know, 3 what circumstances, I can't remember, and I don't 4 5 really recall. 6 But some papers were generated? 7 Right. 8 Do you recall what these papers were? 9 At that time we would not -- I don't know that they would have shared specific company data, 10 but I think there was a lot in the realm of, you 11 12 know, with a revitalized program. You must recall that in 1992, we had just 13 come off of a year and a half long, in my case, 14 almost 2-1/2 year, struggle to get this program up 15 16 from being dead. 17 Right. "This program" being the 18 SBIC program? The SBIC program. We had legislation that 19 resulted in the 1992 legislation which President Bush 20

signed, so there was a lot of enthusiasm. I wouldn't

call it euphoria, but enthusiasm that the program

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21 might now finally be able to be seen in the context 1 of what it could do as constantly in the context of 2 its disparaged past of what it was, you know, playing 3 down to, so that was the kind of theme or at least, 4 you know, that was our impression of what the papers 5 were focused on or the interest was focused on. 6 So was there a lot of interest being 7 generated by the SBIC program at the time? 8 9 I would say there was -- there was a good 10 deal of interest. More so then under the program under your 11 0 12 supervision? With the exception of the 7A loan program. 13 Right. And --14 And the disaster program, which, of course, 15 is an ongoing hot potato for whoever happens to be 16 there, you know, how do you --17 With respect to the specific papers 18 that -- that your administration, that is, the SBA 19 20 generated --21 Α Right. 22 -- for the SBIC program for transition 22 period, can you recall what they were? Were they 1 briefing papers on the general program? Were they 2 more specific inquiry responses? 3 As I recall, they were general briefing 4 papers. There may have been, and I'd be speculating 5 now if I said what was, you know, to the extent to 6 7 which they were out of the ordinary, but if there were anything, they may very well have been papers 8 related to what the programs could do given the 9 context of the new security that we had developed. 10 So future directions for the program? 11 Yeah, right, right. 12 Α 13 Still more general information --14 A Yeah. 15 -- in a programmatic level? Q 16 Α Sure. 17 Did you have any specific requests with respect to information regarding the SBIC program in 18

Do you recall any briefing paper responses to inquiries or any other type of work product that 22

Not that I can recall.

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Arkansas?

1 the SBA generated with respect specifically to the 2 SBIC program in Arkansas?

Not that I can recall. I was aware, of 4 course, that we had this matter with Hale going on.

Right.

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But the one thing that I think would tend Α to -- I mean these would not be questions necessarily coming to me; whether they came through -- SBA operates on two different levels, it operates on the normal rationale level, and then on the sort of the relationship between staffers on the hill and staffers down at the agency and whatnot.

And, you know, in the bureaucracy, there are both the supporters of whatever kind of political persuasion you may happen to have at any particular time, so chances are these questions would not have come to me if they were of a specific -- what would be deemed as sensitive political nature.

19 Right. But you don't recall any specific 20 inquiries or responses with respect to SBIC programs 21 in Arkansas itself?

Specifically on Arkansas, no. There may

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have been Arkansas and other states blended in there. 1 2 but I don't really remember anything specifically 3 about Arkansas.

O Okay. Do you have -- were there regional inquiries about the SBIC program? Were there responses -- were there, you know, inquiries with respect to the effectiveness of the SBIC program in different regions not necessarily states?

You know, I can't really recall what specifics there were, but we used to slice and dice this information in a lot of different ways. So it's -- you know, it's possible there were various different purutations of information.

Right. Do you know the extent of the SBIC 14 15 program in Arkansas, at the time do you know how many 16 SBIC or SSBICs there were in the states?

17 No. Arkansas was not, you know, our -- was 18 not a -- other than the fact that I mean the minute 19 you had mentioned Arkansas, it would bring up, it 20 would hit certain buttons in '92 and '93, but we 21 didn't have any -- I don't recall anything

specifically. My time was consumed more than 22

anything else at this point in time with the 7A loan program.

Q Right. Right. Now, you mentioned earlier that you became aware of the -- you were aware at the time of the David Hale matter.

How did you come to have such awareness or knowledge?

A Well, I think if I recall correctly, Wayne mentioning on a couple of different occasions that, you know, we had Judge Hale, who was or -- I guess Hale who was, you know, not loath to make his connections known and -- but then, you know, there were a lot of people who would at that time claim a lot of association with the incoming -- what they thought was the incoming administration or that at that point the incoming administration to attempt to gain, you know, various benefits.

Q Right, right. Were you aware at that time of any ongoing allegations of fraud against Mr. Hale or any doubts that -- that Mr. Foren may have had with respect to the veracity of Mr. Hale's application?

22 application?

1 2

A Well, I think -- I think there was a feeling based upon, and again I wasn't this close to the actual day-to-day relations between what Wayne was doing and any referrals he was making to the Inspector General's office or that type of thing --

Q Right.

A -- and --

Q But he kept you generally apprised of his doubts and concerns about the Hale matter?

A I think -- generally. I don't think, you know, this was not a Number 1 question on his mind, because there were a number -- and I don't mean to single Hale out as the only malefactor or alleged malefactor. I don't know where he is now in this, but the --

MR. IVEY: You're safe.

THE WITNESS: He's an alleged malefactor.

MR. DINH: He's pled guilty.

THE WITNESS: A confirmed malefactor. We

had a number of malefactors in the programs in various stages of kind of bubbling up at any one

time, and so we -- I asked Wayne to keep me aware of

it but to use his own judgment and common sense to go ahead, and if they needed to be dealt with, go ahead and take the steps, go ahead and deal with them.

BY MR. DINH:

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You said that Judge Hale was not -- I think this is a direct quote -- loath to make his political connections known, what did you mean by that?

Well, if I recall correctly, and, again. my -- again, this has not been one of the key points of my life in the last couple of years, but from what I can recall at that time, Judge Hale was someone who -- we found and maybe this is an archetype, that as people began to descend slowly into the problem areas of the SBICs and SSBICs, they would reach out and try to grab other people and, you know, try to save themselves by reaching out to whatever political straws they might have or opportunities and, as such, they -- you know, I recall Wayne, you know, mentioning that this guy is really, he didn't mention anything specifically like he's threatened to call

20 somebody or X, Y, or Z, but he did mention that he 21

was, there was a lot of blustering going on, I think 22

1 that was Wayne's term.

> Right. But there were -- Wayne did not mention any specifics as far as the specific bolt or allegations that Hale was making?

Well. I don't think he needed to really spell them out. I mean I could fill in -- sort of fill in the blanks on those. And -- but, you know, to be honest about it, after the election in 9 November, I mean that was not a key concern of mine.

You mentioned earlier that the -- you were not the point person for the transition team to make inquiries with respect to specific programs or even request for briefing papers.

Did you receive any requests for briefings or specific inquiries from the transition team from any member of the transition organization?

Well, I mean I was asked to give an interview to two persons. This guy Jonathan Silver, it might have been Silber, but I think it was Silver, he was the guy who interviewed me. He later went on I think to the Commerce Department something.

And you mentioned two persons.

29 There was somebody else, but I can't 1 2 remember who that was. 3 Other than -- other than this specific interview with two members of the transition team, 4 did you have any other contact with anybody else at 5 the transition organization? 6 7 You know, not that I recall. 8 Did you receive any phone calls from the transition organization? 9 Not that I can remember. 10 11 0 All right. But at the time, there were a lot of people 12 13 purporting to represent other people and doing -- you know, as is natural, variety of requests coming in 14 from all over, and after a while, it becomes sort of 15 automatic requests come in and they're farmed out and 16 17 papers generated. But the requests that came to you 18 personally, did these requests come from another 19 person within the SBA, or were they requests made to 20 you directly by a person not within the SBA? 21 I don't think they would have come from 22 30 someone outside the SBA, but probably someone inside 1 2 the SBA, you know, the hierarchy there who was liaisoning with the transition team. 3 Right. And there were persons who would, 4 5 according to your earlier testimony, be coming out of the administrator's office? 6 It's convenable, I mean I don't really 7 remember who that was. 8 9 Were any letters addressed to you 10 personally from the transition organization 11 requesting specific information? No, I just got one letter. 12 13 0 And that was? 14 Terminating me. Α 15 In January of 1993? O 16 Yes. A Did you -- during this time period after 17 November of 1992 and before your termination in 18 19 January of 1993, did you have occasion to see any written requests or inquiries from the transition 20

organization request for information something like

21 22

that?

- 1 No. It's my recollection that people in 2 the transition -- I don't want to say people in the 3 transition, but people were going direct to the -- to 4 the line, not coming through me. Right. During this period, again between 5
- 6 November and January, November 1992 and January of 7 1993, did you have any contacts whether they be 8 direct or indirect with George Stephanopoulos of the 9 transition organization?
- Well, I don't recall him calling me 10 11 directly.
- Okay. Were any inquiries from George Stephanopoulos directed to you through another intermediary at the SBA? 14 15
 - It seems to me we prepared something that had, you know, this is going to Stephanopoulos, and since that was one of the only names that was readily identifiable with the incoming administration, it -- you know, it became a tag line. And I think that's my reference that Ned mentioned the other day.
 - 0 Stephanopoulos at the time was a senior

1 advisor to the President-elect?

- Yeah, I believe -- I believe that was the case. I mean he would have been -- I don't recall specifically whether he had been press secretary, but he was very high up there and really one of the only identifiable people close to the President whose name was generally well-known.
- 8 Right. And it was well-known to you? 0
- 9 Α I knew who he was, yeah.
- 10 And was it generally well-known within the
- 11 SBA who he was?
- 12 Α Oh, yeah.
- And it's a rather distinctive name? 13 0
- 14 It is Α

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- 15 Do you know what exactly it was that you prepared this work product that you testified was 16
- 17 identified as going to Stephanopoulos?
 - I don't recall offhand. A
 - Did it have to do with the SBIC program? 0
- 20 I'd be speculating as to what exactly it
- 21 was about, but I mean it would be more likely to be 22 that than the surety bond program, let's put it that

way.

Q Okay. Why did you say that?

A Well, this was a high profile program that got a lot of attention and more than anything else was widely characterized by both the, you know, people in the -- the people in the SBIC industry very tightly connected with the, you know, new administration, a lot of them served on their committees and whatnot.

And there was a real feeling that the SBIC program was going to be the basis upon which they would have their community bank model, at least that was what we were wishfully thinking would happen.

Q "They" being the new administration?

A Yes.

Q Okay.

A And since, you know, it was known that I believe that there were some close understanding -- I mean, our view was that, you know, Clinton had been governor of Arkansas in Arkansas, you're lending opportunities are fairly few. You know, it's not a massive magnet for capital in Arkansas, so,

consequently, any of the SBA programs would have helped a lot.

So we probably inferred, perhaps wishfully thinking that he would be well aware of these from a general context. We had no specifics to base that on

Q You mentioned that members of the perspective administration had a familiarity with SBIC program. Can you explain that? Were there -- were there specific --

A More from -- I would describe that as more from kind of an intellectual sense as an alternative lending vehicle than traditional banks. I mean there was a lot of debate back in those times about either the banking system being unresponsive to lenders -- I mean to borrowers at various levels, and this was tied up with the whole community, reinvestment act debate and a variety of other things. So as a nontraditional financing vehicle, the SBIC program was one of the only ones out there.

Q But to your knowledge, nobody in the perspective administration or in the transition team

had any specific working knowledge of the SBIC 1 program at a ground level beyond an intellectual 2 3 level? 4 A I would say. 5 O So most of it is a policy-based interest? Yes, I would say it's a focus. 6 Α 7 0 Okay. Do you recall the form of the 8 response that went to or allegedly went to 9 Mr. Stephanopoulos? I don't. 10 Α Was it a briefing paper? 11 O I don't recall. 12 Α 13 Was it a letter? 0 14 Α Chances are it would have been a short 15 briefing paper or a briefing document of some sort. Either -- its form would probably have taken a memo 16 context form rather than a letter form, because if it 17 18 would had been a letter, someone would have had to 19 sign it. 20 And it wasn't -- I wasn't going to sign it, 21 and the administrator wasn't going to sign it, and 22 Wayne Foren wasn't going to sign it and Ned wasn't 36 going to sign it. So, consequently, we would have 2 flipped back to the white paper format or the, you know, white paper format or memo format. 3 4 So that covers the end product, that the --0 5 Α Right. 6 -- that came out? Do you recall what 7 prompted the product to -- that allegedly went to 8 Stephanopoulos was an inquiry from 9 Mr. Stephanopoulos? 10 As I mentioned before, there was some 11 reason to generate this paper. 12 Do you recall what that reason was? 13 And I recall that there was some view that, 14 again, Stephanopoulos was a name that -- I seem to 15 recall that it was for that purpose, but, again, as being senior policy adviser, this being a policy 16 17 memorandum, I mean going forward that that would not 18 have been appeared out of the ordinary, whoever it 19 was that was maybe invoking his name, but I don't recall him calling me directly. 20 21 Do you know who it was that invoked 22 Mr. Stephanopoulos' name?

1 Α I do not.

2 And you said you don't recall who the 3 liaison was at the SBA at the time for --

4 I don't. There was so many different 5 people running around purporting to be, you know, 6 odds on favor to be the new somebody or another and. 7

you know, I couldn't have cared less frankly.

I mean a lot of people, all these people were so gleeful to have the Republicans out and the new administration in that there was a certain giddiness as to, you know, everyone running around. you know, masquerading, you know, as whoever.

But you, yourself --0

14 Α No.

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15 0 -- did not receive a phone call from

Mr. Stephanopoulos? 16

17 Α No.

18 Did you take any part in the preparation of 19 the response to this inquiry?

20 No. This is stuff that we had been talking

21 about almost nonstop for two and a half years. This 22 is stuff that I testified to before Dale Bumper's

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committee probably five or six times, the company, the administrator three or four times.

This was stuff that was so redundant for us anyway. I mean we knew where we wanted to take the program and kind of our great ideas of what could happen to it, so it was common knowledge what my views on the program were.

8 Stuff being your views and description of 9 the SBIC program?

10 And what it could possibly be utilized to 11 do in a positive way, yeah.

12 And some of those included the community 0 13 bank --

14 Α Yeah.

> -- community development bank? 0

We believed and even being outside of the SBA in the late part '93, I was kind of shocked that the community development bank idea never utilized the SBIC program, because it would be perfectly sort of in my view tailored for that.

21 Were -- were you -- but you did not take 22 any active part in the preparation of the response?

39 1 Α No. 2 0 Do you know who did? 3 That would have been done on Wayne's shop 4 and --5 Did you direct Mr. Foren to do this -- my 6 question is, was the request made through you to 7 Mr. Foren to prepare this paper? 8 Now, Wayne and Ned has said, I guess, you 9 know, I came in one day and, you know, told them this was for Stephanopoulos, go ahead and pull together X, 10 Y, and Z, and I think I mentioned, you know, I don't 11 12 specifically recall telling them that, and generally 13 I kind of try to downplay the fact -- I mean this 14 was -- we were under instructions to maintain an 15 orderly transition and to assist the incoming administration in whatever way possible for that. 16 17 My goal in perhaps making it saying 18 Stephanopoulos, one, someone -- something would have 19 triggered me to say that, you know, you know, I mean, so maybe along the lines of, you know, wanting to 20 make sure we got our numbers to add up right so we 21 22 couldn't cause any further embarrassment to the 40 1 agency. 2 But you don't recall what the something 3 was? 4 No. 5 You don't recall who it may have come from? 0 6 No. I do not. Α 7 Well, let me -- you refer to 8 Mr. Shepardson's testimony. Just for the sake of clarity, let me just read you a portion of that 9 testimony --10 11 A Sure. 12 -- at the public hearings before the 13 special committee last week. And I'm reading from 14 the transcript of public hearings on Tuesday, 15 November 28th, 1995 before the special committee to 16 investigate Whitewater Development Corporation at page 46, line 6, "during the period of time between 17 November and the inauguration when the administration 18 19 was in the process of transitioning, and again I'm

going on hearsay information, but one of the staff

people from the transition team, as I recall, it was

Mr. Stephanopoulos contacted the former associate

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41 1 deputy administrator, it was Mr. Mitchell Stanley who 2 was Wayne's immediate superior and explained to 3 Mr. Stanley that they were aware of this program and 4 thought that this program was very beneficial and had been beneficial I believe in Arkansas and asked 5 several questions about Mr. Foren and his management 6 7 capabilities and so on." 8 Do you remember talking to Mr. Foren 9 specifically about this request? 10 Not in that level of detail. Okay. So Mr. Shepardson was mistaken here 11 12 when he says that it was Mr. Stephanopoulos who 13 contacted you directly? 14 I think that is true. I think it was an overeagerness, that was -- as I said, one of the only 15 16 names -- I mean, that or Hillary or Bill or, you know, something like that. But, you know, I 17 18 understand when a guy like that would call me and I sure wouldn't, you know, go down and just disseminate 19 20 that broadly. 21 Right. O 22 I would have remembered if he had called 42 1 me. 2 Right. But you don't remember who invoked 3 his name in turn? 4 A Right, I don't. 5 Do you remember any inquiries about 6 Mr. Foren himself and his management of the SBIC 7 program? 8 Not at that point. Α 9 Q Okay. Do you recall any subsequent inquiries about his management of the program? 10 Well, it was a -- to be honest, this was a 11 longstanding -- there would be a general inquiry 12 13 of -- about his management style. 14 A longstanding inquiry from whom? 15 Well, I mean a long -- from the agency Α 16 itself --17 Q Okay. 18 -- related to issues that happened in '92 19 related to, you know -- he was told to do the near 20 impossible to push this legislation through in one 21 year.

Right. The legislation for the SBIC

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1	program				
2	Α	In 1992.			
3	Q	Okay.			
4	Α	This would have taken anyone in the			
5	bureauc	racy four or five years to get it done, he did			
6	it in one	e year.			
7	Q	And he was successful?			
8	Α	He stepped on a lot of toes in the process,			
9	but he v	was following the administration's directive			
0	to get it done. So he did a lot of things that were,				
1	you kno	w, ultimately not inured to his best interest.			
2	Q	Within the bureaucracy itself?			
13	A	Yeah.			
4	Q	But aside from these general internal			
15	A				
6	Q	doubts about his management style			
7	generate	ed by his conducts of the legislation push,			
8	were the	ere any external inquiries regarding his			
9		ment capabilities?			
20	A	No one asked me specifically except in the			
21	context	of a general review of the program areas,			
22	such as	in my interview with the transition team, you			
		, ,			
		, ,	44		
1		bout management in each of the areas.	44		
	know, a	bout management in each of the areas. Were there specific questions during the	44		
1	know, a	bout management in each of the areas.	44		
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- 1 Right. There's always an assessment of 2 managers, if you had the best of all possible worlds, 3 you know, how would you do this different or give us 4 a guideline about what we do differently, you know, 5 that type of thing. 6 Did Mr. Foren's name specifically come up 7 during the interview? 8 Yeah. Insofar as it came up in every 9 other -- you know, my assessment or my kind of 10 knowledge and my working relationship with him. 11 And your specific responses? 0 12 Α Yeah, right. 13 The transition team members did not ask 0 14 specifically about Mr. Foren? 15 They did not ask me, for example, why did 16 Wayne do this or that or isn't Wayne X, Y, or Z. I 17 mean they didn't know, I don't think they knew
- Wayne.
 Q Right. It was only in response to your own
 responses that --

21 A Right.

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Q -- that they knew who Mr. Foren was? What

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is your estimation of Mr. Foren's management
 abilities? What was your response to the interview
 team?

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 A I think he did the near impossible, and

A I think he did the near impossible, and frankly, he -- you know, he paid the price for it.

Q He was subsequently reassigned in 1993?

7 A Yeah, and cashiered later.

Q Other than at the interview, were there any other inquiries written or telephonic or oral that you can recall regarding the management of the SBIC program?

A No, I cannot remember specifically any inquiry or specifically written that would particularize itself down on any specific SBIC or SSBIC.

- Q Or any specific managers of those programs?
- 17 A Right.
- Q Were there any specific questions or
 inquiries about Capital Management Services and David
 Hale, in particular, by the transition team?
 - A Not that I remember.
 - Q Did you provide any briefing to the

47 transition team irrespective of any specific 1 2 inquiries about Capital Management or David Hale? 3 No. not that I recall. 4 0 Do you know of anybody who at the SBA did 5 during this period December and January 1993? 6 A I can only speak for myself, because I 7 mentioned before and tried to frame the picture. there were people running all over the place trotting 8 9 out credentials from the Carter Administration, you 10 know, and the whole -- you know, a lot of people coming forward with information, you know, and that 11 12 type of thing. 13 It normally happens during transitions, it just depends on who's coming in and who's going out 14 15 that affects that one way or the other. But to the best of your knowledge, there 16 was no specific mention of Capital Management or 17 David Hale during this period? 18 19 Not that I remember. 20 Okay. You left the SBA in January of 0 21 1994 -- 1993? 22 A Right. 48 Do you keep in contact with, either on a 1 2 personal or a professional level with the -- your former colleagues there? 3 I sure do 4 A Do you keep in contact with Wayne Foren and 5 6 Ned Shepardson? 7 Not Ned, I see Ned occasionally, when Wayne 8 was -- went through this process --This process being the October 1993 9 0 10 reassignment? 11 Yeah, and events leading up to it. 12 0 Okav. 13 And subsequent to his being cashiered from the SBA, the, you know, I -- I have talked to him on 14 numerous occasions. I have talked to him and tried 15 to, you know, help him in whatever way I can, because 16 17 this is a guy who was for 32 years or something in 18 the SBA and, you know, he was then on the -- after a period of time in this limbo, then went on the 19 20 street. And I tried to help him in whatever way I 21 could --

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Right.

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-- more as a friend rather than as, you 1 2 know, a colleague. I certainly wasn't in any 3 position to help in 1993 or '94.

4 O But you were his direct supervisor while 5 you were at the SBA?

A I was, I was,

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Did he mention to you any specifics of any briefings he may have had with Erskin Bowles regarding Capital Management and David Hale?

He had mentioned on several occasions that there had been, you know, that he had had these briefings with Erskin Bowles, and my recollection at the time was that Bowles told him go ahead and, you

know, let the chips fall where they may. 14 15

Right, right. And his -- and Mr. Foren's reason for telling you this was simply because it was 16 a case that you were interested or you had -- you 17 18 were aware of at the time that you left the SBA?

Well, there's a certain period when people 19

are trying to figure out what they did wrong, why 20 21 they are in the position they're in now, sort of a little bit of a, you know, therapy. 22

1 Oh, so these discussions were during the 2 period of his reassignment?

These were subsequent to him leaving the 4 agency.

5 0 Oh, okav.

6 I did not talk to him for a year after I Α 7 left the agency.

8 Okay. So you only talked to him the beginning of January 1994? 9

When he was kicked -- when he was put out on the street, yeah.

Right, okay. And as part of this therapy process, as you put it, he was replaying a videotape with respect to the briefings and the contacts?

Α Right.

And that's the only context in which you 16 17 had talked to Mr. Foren with respect to these 18 briefings?

19 Yes. And I don't want therapy to be seen 20 as its wrong light either.

Q Oh, no.

There were people who --

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1 As a process of working through? 0 2 Right, right. A Is there anything else about the SBA's 3 0 4 handling of the investigation into Capital Management Services and David Hale that you may think is 5 6 relevant to this committee's investigation? 7 I've been thinking about that since my call 8 from Susan Schmidt at The Washington Post alerting me 9 to the fact that I had been -- she called about a 10 half hour before you did, but --11 MR. IVEY: Only because he was still on the 12 task. 13 MR. DINH: I can't believe she beat me. 14 THE WITNESS: Right, right. You get high 15 marks for tracking me down in Dallas, but the -- the 16 thing is I've been trying to think of what I could 17 add that would not be pure speculation, but I've got to really just say that he -- at the time I had a 18 19 whole lot of other things to be really worried about, 20 and I had had, you know, 12 years in the administration, so I was somewhat privy to, you know, 21 22 had this come through, I mean it seems to me I would have remembered it more distinctly than I did. But I 1 had other things to worry about and I was just glad 2 3 to be getting out frankly. 4 BY MR. DINH: All right. Is there anything with respect 5 6 to the SBA's handling of the SBIC program that you 7 can think of that may be relevant to this committee's 8 investigation? 9 Well, just sort of a -- if I can make a 10 personal comment. I had a meeting with Bowles 11 after -- in '94, I guess it was, and, you know, I 12 think that he did a tremendous job in helping to 13 steer a very difficult situation and continuing on a 14 positive upbeat trend for the administration -- for the SBA, and he struck me as a person of tremendous 15 integrity and really of great skill. 16 17 And he scared everybody at the SBA, because 18 he knew how to read numbers and they couldn't hide 19 things, and he really had a great good handle. With 20 no disrespect to other administrators, he probably

had the best handle on the financial potential of the

SBA of any -- of any administrator that's been there

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since the beginning. And so he just struck me as a 1 person of tremendous integrity. 2

Thank you very much for that, and, as, you know, his confidence in running the SBA was not the -- a subject of any doubt for our committee or any other committee that I know of.

Sure.

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MR. DINH: I have nothing further.

EXAMINATION

10 BY MR. IVEY:

> Let me ask you a few questions. I'll be pretty short I think.

13 A Okay.

14 But there is some blank spaces for me that I'd ask you to fill in. 15

Sure A

17 You mentioned that the SBA was under a 18 degree of attack, I guess, during the '92 campaign, 19 and I'm not familiar with what those issues were.

So could you tell me what was going on?

Sure. And also they related to the 7A loan 21 22 program not to the SBIC program.

> And the 7A loan program is the? 0

That's the general business loan guarantee program. If I can encapsulate for one minute what it was to put it in context.

> Please do. 0

At that time you may remember, particularly in New England, we had a massive bank -- we had massive bank failures, disproportionate amount of disclosure of financial institutions, FDIC was going in to take over these large portfolios, in doing so, FDIC is charged with liquidating the portfolios, but in doing so, they were liquidating droves of small

businesses and driving everyone crazy in 13

New England. 14

We took it as an opportunity to demonstrate how the 7A loan program could be utilized in a new 16 fashion to assist businesses as its charter to assist 17 businesses that were trapped in this FDIC net, if you 18 will, pull them back out, and they weren't in there 19 20 for any reason other than they had been located with a financial institution that went down, so they were 21

22 trapped, you know.

And we tried like -- we tried a lot to get our administration as well as the hill interested in what was going on as a paradyme of perhaps a role the SBA could play.

1 2

1 2

We were able to save something on the order of 7, 8,000 jobs in New England during the course of 1992, and, for this, we were criticized for this being -- because we started in New Hampshire, this allegedly was part of the Bush master plan to, you know, win the New Hampshire primary, which is just so absurd, it's not even -- it's just not funny, and we were criticized for that dramatically.

It became kind of a football, and we had a lot of hearings. And the Senate Small Business Committee was very irate and the small business committees was very irate and everyone was very irate, but we did manage to do some good there for which I am happy.

Q Was this connected with the Bank of New England?

A Subsequent to the Bank of New England and New Hampshire, for example, you had seven of the nine

major banks in New Hampshire collapse simultaneously. And we saw it as a responsibility of ours to do something about it, and we made the fundamental mistake of trying to do something.

Q So the steps that you took came -- what would this have been, early 1992, maybe late 1991 and the assumption was --

A And it started in late 1991, but the only time anyone got interested in it was when I think in the -- in late spring of '92 allegedly this was some part of a master plan to --

Q So the New Hampshire primary was already over?

A For all intents and purposes, but nonetheless I think it had more to do with us not starting it in Massachusetts or Maine. I mean we were trying to do this on a systematic basis, but we did not, you know, care to -- we wanted to do something, so that was our mistake.

- Q No good deed goes unpunished.
- A Not in that case; no call is ever unnoted.
- Q You mentioned people making claims -- this

57 I guess would be between the times of the election 1 2 and the inauguration --A Right. 3 -- of knowing somebody in order to help 4 5 themselves in one way or another. Right, positioning. 6 7 I guess I wanted to get a more general feel 8 for. I mean would this be people who were having difficulties, for example, with the SBA maybe in 9 getting leverage or in contracts where they had 10 concerns about questions they were being raised and 11 audits perhaps, I mean what types of scenarios are 12 13 you referring to? No, this is people within the SBA. 14 Α 15 This is within the SBA? 0 16 Positioning themself for entrance into the 17 new administration. Now, you said, let's see, you mentioned 18 something like that I believe --19 20 I don't recall --Α -- in connection with Hale, and my notes 21 here I have blustering written down, too. Am I 22 58 1 misrecollecting what you were saying? No, I think that was Wayne's term, but 2 blustering seems to be a good way of describing it. 3 We had a lot of people who at the SBA, you know, when 4 they lack the substance, perhaps, to refute an 5 allegation or a charge made against them, blustered, 6 7 they pulled in a lot of extraneous, do a lot of 8 extraneous issues, attempt to gets political leverage, leverage in the sense, political pressure 9 to bear, but that's my recollection, it's a brief 10 11 one. 12 Now, I guess what brings you here today is 13 the Stephanopoulos issue. 14 Right. Α 15 And I just wanted to make sure I understood your testimony clearly. I think it was clear, but I 16 just want to make sure I've got it down correctly. 17 18 Α Right. 19 George Stephanopoulos is a name that was known to you during the transition period, is that 20 21 fair to say? It was known to one and all.

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Α

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 1
             Okay. And if he had called you, that's
 2
    something you would have recalled?
 3
         Α
             Sure.
 4
         0
             But you don't recall getting a call from
 5
     Mr. Stephanopoulos?
 6
             No
             You do have some recollections of a project
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        0
 8
     that was done for Mr. Stephanopoulos; is that
 9
    correct?
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        A
             Right. Let's put it this way,
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     Stephanopoulos becomes a code for that thing that
12
     you're trying to define, and it's like Clinton, you
    know, it's -- it becomes well, we need to have the
13
14
     biggest name we can throw on the table to get people
    to do something, so we will bring that name in, who
15
16
     it relates to it, it's an intern in Stephanopoulos'
17
    office or Stephanopoulos himself, it doesn't matter,
18
    because it happens to do with the name as a -- it's a
    picture of what people -- it's power pictures.
19
20
            You know, when you don't know who -- who's
21
    the new administrator, you know, you're trying to get
    the -- convey the image in the bureaucratic
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                                                              60
    shorthand, and that's how I'll put it, that this is
 1
 2
    something you better do and you better be right and
 3
    you better do it now and, you know, because someone
 4
    up the line is going to get it.
 5
             So Stephanopoulos becomes a shorthand for,
 6
    you know, other things. And, frankly, since he was a
 7
    well-known figure at the time, that was an easy
8
    shorthand to use.
9
             So at the agency or -- I'm sorry, the
    administration at that time, there were political
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11
    appointees left over from the Bush Administration?
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        Α
             Right.
13
             But I believe your testimony was
    essentially that many in the bureaucracy weren't
14
15
    particularly paying attention to you guys at that
16
    point?
17
             They could not -- they would not -- there
        A
    were, some were very kind to us, to me personally,
18
19
    but there were -- most of them were just, you know,
20
    (indicating), you know, move aside, my future is in
    favor with the new group.
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So in order to get something done in the

administration at that point, if I'm understanding you correctly, one would have needed to invoke a name 3 like Stephanopoulos or someone connected with the new 4 administration to motivate the bureaucracy?

I would not have used Stephanopoulos had there not been some reason to use Stephanopoulos.

I'm not saying you pulled it out of thin air.

I mean I've been there and done that. I was on the White House staff myself, so I know how sometimes these things get misapplied and it becomes a shorthand. But there was some reason to use that name, I don't recall specifically why, but I mean I didn't pull it out of thin air.

Sure. But you -- you didn't have direct contact with him and you're not clear as to who did?

17 Right. Α

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Okay. With respect to Mr. Foren, you mentioned that he had accomplished I think you said in one year what probably should have taken four or five?

22 Α Right.

an ethic to that.

Q Okay. And that referred to I think --

Four or five SBA years maybe --Α

Is that dog years or --O

4 I don't mean to be flip about it, but I've 5 worked in a lot of different bureaucracies. I've 6 worked in the State Department bureaucracy which is, you know -- what I would describe as an extremely 7 8 serious bureaucracy, you know, where people have a 9 high level of professionalism, and if you ask for something, it'll be done, because there's -- there's 10

Here you had the other end of the spectrum. no disrespect to the SBA, but you had an organization that was dead for so long that was trying to push a new idea through it or get them to respond to something took, an unbelievable amount of effort, the -- the staffs in the house and the senate, you know, they want -- they didn't have -- they were really kind of afraid of something moving through the SBA like that, I think they were encouraged by it,

21 but that's just to say four or five years, you know,

22 who knows, maybe it would have only taken them three

1 years.

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2 0 Let me see if I understand, too, what you 3 mean. There was a legislative package, I take it --4

Α Right.

5 0 -- that Mr. Foren pushed through and 6 this --

It would be like I think we had a little bit to help out with that, Wayne wasn't specifically the only guy, but he did the crafting and the drafting along with all the lawyers at SBA and everything like that, that filled in in the bank. We also had this industry advisor counsel which helped to speed up the work of the legislation.

What was the package, I mean what was the substance of the legislation?

It was -- it was the -- it was the development of a new type of financial instrument. We called it the equity security or participation security, which before this time, we had the SBIC program, a debenture instrument, a bond instrument, which was designed in the 1950s which was a good useful work-a-day document.

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But the reason we had all these SBICs in 1990 and '91 going in the tank was because they were -- they were lending long on shortterm funds and going under, the classic S&L, you know, kind of problem, and we tried to remedy that by giving them an instrument that would match a longterm focus.

The whole -- the bumpers and everybody else, you know, forcing the issue toward getting the SBIC program to go along in its perspective, well, you can't do that with a shortterm instrument, so we needed to develop a longterm instrument, well, this was something that was just unheard of, so it took a long time.

And it took a lot of cajoling and education to people to get people to really focus in on and now, I mean the market has pressure-tested that, and it found it very desirable, so...

Now, you mentioned he stepped on toes. Would those toes have been connected to feet within the administration or -- and by administration I mean the SBA, or were they outside or I mean --

Everybody's, mine included.

65 Would that include people on the hill, too, 1 2 it sounds like you're saving? Oh. veah. 3 Α 4 He sort of pushed the committees in a 0 direction that maybe they had not considered going 5 6 previously? 7 Right. And you've got to be careful when Α you're -- when you're not used to that kind of the 8 reaction. You can't just have a monolithic view of 9 the way the world operates and forces everything in 10 it, everything is about compromise and getting people 11 to work with you as opposed to, you know, a crusade. 12 13 So, consequently, I think it's fair to say that Wayne's view got him into a lot of trouble. 14 15 So you feel that he shortened his career, I guess you could say, by pushing this legislation in 16 the way that he did, it was perhaps his style? 17 His single-mindedness and purpose of how he 18 19 pushed the legislation and in some cases how he ran 20 the program to accomplish that end, you know, it's one style that is equated generally with not a long 21 22 life in the bureaucracy. 66 1 Okay. And this would be, I guess, not 2 specific to the SBA, but I guess --Oh, believe me, you know, it's everywhere. 3 And you've worked in a variety --4 0 5 I've worked in a lot of different federal 6 agencies, and what Wayne did was tantamount to 7 killing himself, I mean his career, let's put it that 8 way. 9 We understand. We understand. 10 MR. IVEY: Let me take just a moment, I 11 think I'm done though. 12 (Pause.) BY MR. IVEY: 13 14 Oh, last area that I wanted to ask you 15 about. 16 You mentioned that you had sort of postmortem conversations with respect to Mr. Foren, 17 18 and I guess him trying to figure out why he was

Right. I wouldn't call them postmortems, 20 21 as much as I would describe them as -- as kind of 22 rehashing events.

essentially forced out of the agency.

I guess I got cut up in our death analogy 2 from earlier. Right, it's true. But at that point, you 3 4 know, it's like the, you know, if only we had fought 5 the battle this way, we wouldn't have lost. You

6 know, how many people in this town are around -- have

7 had those kind of discussions, you know --

> 0 Sure.

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-- and will go on forever. So I mean it's basically a rehash I would call it.

And these conversations took place I think you said you hadn't spoken to him for about a year after you left.

Α Yes.

So this would have been early '94 --0

16 Α Right.

17 -- that we're talking about? And he

18 mentioned Mr. Bowles I believe you said in his

19 conversations? 20

Α Right.

21 0 And your recollection of that conversation 22 is that Mr. Bowles said let the tips fall where they

68

1 may essentially?

2 Those were my words, but that's the 3 impression I got from Wayne's conversation, 4 discussion was Bowles had run an SBIC himself, and he 5 was a very bright -- what we would call operator of an SBIC venture capitalis, so -- he would have had no 6 7 track with this nonsense that Hale would have been up 8 to, such as I even know what Hale was up to. 9

Okay. So I take it from what you're saying that Mr. Foren did not convey to you any sense that Bowles was doing anything improper or unethical in any way?

No. My impression is Bowles would resign rather than do something like that.

MR. IVEY: Okay. I have no further questions.

THE WITNESS: That's just my impression. I don't know that resigned is the right term, and I wouldn't use that term other than it just sort of popped out, but it doesn't appear to me to be the type of person who would do something like that --MR. IVEY: Okay.

THE WITNESS: -- my impression only based upon my limited experience with him. FURTHER EXAMINATION BY MR. DINH: Just one final question. I just wanted to make sure we closed the loop and probably help Mark Stevens in trying to find this document that was sent in the name of George Stephanopoulos. Do you know if it was ultimately addressed to Mr. Stephanopoulos? Do you recall that? Α I don't know. Okav. I would find out whoever the head of the transition team was. I don't even remember who that was. At the SBA? Α At the SBA. And you testified earlier you do not know who it was? Α Yeah. MR. DINH: I have nothing further. MR. IVEY: Thank you for your time. THE WITNESS: Okay, thank you. (Thereupon, at 3:28 p.m., the deposition was concluded.) MITCHELL F. STANLEY

CERTIFICATE OF NOTARY PUBLIC & REPORTER

I, CINDY L. SEBO , the officer
before whom the foregoing deposition was taken, do hereby
certify that the witness whose testimony appears in the
foregoing deposition was duly sworn; that the testimony of
said witness was taken in shorthand and thereafter reduced
to typewriting by me or under my direction; that said
deposition is a true record of the testimony given by said
witness; that I am neither counsel for, related to, nor
employed by any of the parties to the action in which this
deposition was taken; and, further, that I am not a
relative or employee of any attorney or counsel employed by
the parties hereto, nor financially or otherwise interested
in the outcome of this action.

Notary Public in and for the District of Columbia

My Commission Expires FEBRUARY 14, 2000

DEPOSITION OF WILLIAM A. TEER IN RE: S. RES. 120

MONDAY, DECEMBER 4, 1995

U.S. SENATE,
COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS,
SPECIAL COMMITTEE TO INVESTIGATE WHITEWATER
DEVELOPMENT CORPORATION AND RELATED MATTERS,
Washington, DC.

Deposition of WILLIAM A. TEER, called for examination pursuant to notice of deposition, at 3:15 p.m. in Room 428 of the Russell Senate Office Building, before CARMEN BUNCH, a Notary Public within and for the District of Columbia, when were present:

LOUIS J. GICALE, ESQ.
Majority Deputy Special Counsel
LANCE COLE, ESQ.
Minority Deputy Special Counsel
U.S. Senate
Committee on Banking, Housing, and Urban Affairs
534 Dirksen Building
Washington, DC 20510
On behalf of the Committee.

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William A. Teer	
by Mr. Gicale	3
by Mr. Cole	

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1 2	Whomass	PROCEEDINGS			
3	Whereu	WILLIAM A. TEER			
4	was call	led as a witness and, having first been duly			
5	sworn, was examined and testified as follows:				
6	Sworn, v	EXAMINATION			
7		BY MR. GICALE:			
8	O	Could you please state your name for the			
9	record.	Could you pieuse state your name for the			
10	A	William A. Teer, T-e-e-r.			
11	7 %	William 71. Tool, T o o 1.			
12					
13					
14					
15	Q	Your present business address?			
16	A	4815 West Markham, Little Rock, 72205.			
17	Q	And your business phone number?			
18	À	501-661-2171.			
19	Q	You are presently employed at the Health			
20	_	nent in Arkansas?			
21	A	Uh-huh, yes.			
22	0	T 1 4 4 0			
22	Q	In what capacity?			
	Q		4		
1	A		4		
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1 2 3 4 5 6 7 8 9 10 11 11 12 13 14 15 16 17 18 19 20	A environi Q position A 1983. Q A Q director A Q to '83? A section, Q A '77, '78	I'm director of the division of mental health protection. And how long have you been in that i? Since October of 1983, I think it's October And what did you do prior to that? I was the assistant division director. How long were you the assistant division? I have no idea, I really don't. Approximately. Three years, four years. So approximately 1980 to 1983, '79 or '80 As far as '79, I was head of the food. I remember that. How long were you head of the food section? Since 197 approximately 1977, I guess, 3.	4		
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5 1 section. That was from 1974 until '77, '78, whatever 2 it was, and before that I was a field sanitarian in 3 Texarkana, Miller County, from 1970 until 1974. 4 Is that when you first came with the 5 department, '70 or '74? 6 In 1970, February. Α 7 0 And you were a sanitarian? Sanitarian in Texarkana, Miller County. 8 Α 9 0 Now, the position as director, director of environmental --10 11 Α Health protection. 12 0 Is that a political appointment or is that 13 a career position at the Health Department? No, it's a career position. 14 Α 15 0 Pardon me? 16 It's a career position. I serve at the 17 whim of the governor or the department director. 18 MR. COLE: So you don't have civil service protection or merit protection? You can be fired 19 20 without cause or can you only be removed with cause? 21 THE WITNESS: No. I understand I can be 22 removed at any time they want to remove me. I didn't 1 know that when I took the job. 2 MR. COLE: I'm sure you'll appreciate it, 3 us putting it on public record. 4 THE WITNESS: That's all right. I've been 5 asking for demotions for I don't know how many years 6 to get me back into a safe position. 7 BY MR. GICALE: 8 Now, it's the director's position, that's what you call a clear position. What about the 9 10 assistant director or prior positions, were those civil service positions? 11 12 A Oh, yeah, uh-huh. 13 So until you got into the director's position, you were a career employee? 14 15 Yeah, that's the way I understand it. No, as far as those positions, they are all state civil 16 17 service, okay. As far as the director position, the 18 way I understand it, that position is also a state 19 classified position. Now, the division name used to 20 be sanitarian services, and we changed that about two 21 years ago, I believe, the name of the division.

Mr. Teer, this deposition is being

conducted pursuant to Senate Resolution 120. The 1 2 resolution establishes a Special Committee

3 administered by the Banking Committee to conduct an

4 investigation involving Whitewater Development

Corporation, Madison Guaranty Savings & Loan 5

6 Association, Capital Management Services,

7 Incorporated, the Arkansas Development Finance

8 Authority and other related matters. 9

Section 1(b)(3)(A) and (B) of Senate Resolution 120 authorizes investigation and public

hearings into A, the operation, solvency and

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12 regulation of Madison Guaranty Savings & Loan

13 Association, and any subsidiary affiliate or other

entity owned or controlled by Madison Guaranty 14

Savings & Loan Association; B, the activities, 15 investments, and tax liability of Whitewater 16

Development Corporation and as related to Whitewater 17

18 Development Corporation, of its officers, directors

and shareholders. This will be the focus of today's 19

20 deposition.

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You were requested to testify, I believe, last week. This deposition is being taken in advance

of public hearings which will continue on this week and probably later on, early in 1996, and it's possible you may testify at those hearings.

We will be asking you a series of questions. You're testifying under oath. If you don't understand a question, let us know and we will rephrase the question.

The stenographer will prepare a record of questions and answers. The deposition will be treated as Committee confidential until the commencement of the hearings. Prior to the hearings, you will receive a letter from the Committee telling you that you may come to the Senate to review the transcript of your deposition and make note of any corrections for transcription on an errata sheet.

Now, I note that you are from Little Rock and we can attempt to make some arrangements to make that available to you since you're from out of town, short of coming to the Committee to review that, and we can talk to you about that afterwards.

Is it set in concrete that I will testify in front of the Committee?

9 1 O No. 2 Α Okay. 3 If you are called to testify at a public hearing, you will be permitted to have a copy of your 4 deposition transcript four days in advance of your 5 testimony. You may be represented by counsel. I 6 7 note that you are not represented by counsel here 8 today. Objections to the form of questions will be 9 noted for the record. Counsel may object on the 10 11 grounds of privilege or relevance. The Committee chairman may rule on objections where the witness 12 13 refuses to answer a question. 14 Now, it's my understanding that, as a 15 result of being requested to appear here today, you obtained copies of documents gathered together by 16 Mr. Dobbins that you reviewed in preparation of your 17 testimony, for your testimony, and you have brought 18 here today; is that correct? 19 A I scanned them. And I have them here. 20 21 Were there any records, in addition to the records that Mr. Dobbins put together and gave you 22 10 copies of, that you also took from your own files? 1 And are they part of the package that you are going 2 to leave with us after your testimony today? 3 I can. Some of the documentation that was 4 given to me by my staff at the office, and then 5 Dobbins's stack. 6 7 MR. GICALE: Off the record. 8 (Discussion off the record.) 9 BY MR. GICALE: O Mr. Teer, you've indicated that, in 10 addition to the materials that Mr. Dobbins supplied 11 to you, you had your staff gather together some other 12 13 documents that you had in your offices or your staff's offices with respect to this project and that 14 you've reviewed these materials in some fashion. Can 15 you describe the extent of your review of the 16 materials before testifying here today? 17

A Okay. The extent of the review was a

scan. I started reading them and realized that there

after being 12-plus years, and decided that instead

of trying to anticipate or guess at what you guys

was a lot of information here that I did not remember

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wanted, I would just come in and try to truthfully,
and to the best of my remembrance, answer whatever
specific questions you want.

Q Did you speak to anyone about the substance of your testimony before coming in here to testify today?

A Yes. Let me see. I spoke to Jerry Hill, Tom Butler, Lex.

Q Together?

A No. Oh, wait a minute. Yes, yes. Also Terry Brumbelow. Terry was not with the group we had, but I met with Tom Butler, Lex and Jerry Hill earlier in the week before Tom and -- before Tom and Jerry were subpoenaed.

Q At whose request did you meet with them?

A Tom's.

Q What was the purpose of the meeting?

A Just to make sure we had all the

19 information we needed, that -- I think it was getting

20 down to a question of being subpoenaed and the main

21 thing that came in was we were trying to remember

22 whether there was anything that came up, or make sure

we had all the documentation that was needed. And at that time I told them that I couldn't remember, you know, everything that happened, and the only thing we were going to do, or I was going to do, was just come in and address the questions and be very truthful.

As far as Tom and Jerry both, they said.

As far as Tom and Jerry both, they said, you know, to be truthful, which I intended to do.

Also we talked to the attorney, George Harper, and he said the same thing, said all we have to do is just come in and tell the truth, and I told them I didn't intend to do any other.

Q Did you go over any chronology of the events that occurred? Did you all discuss that at that point?

A The only chronology that came in that I can recall had to do with -- let me see, the sanitarians being replaced. On the McDougal --

Q Did you have a discussion about that last Wednesday?

A Yeah. Well, Tuesday, Wednesday, whenever it was. Yeah, because I could not remember, you know, when it happened as far as was it before Tom

and Jerry's meeting with the governor or after Tom 1 2 and Jerry's meeting with the governor. I could not 3 recall. All I remember is that it happened, and I think it came out that it was before. I'm sorry, I'm 4 5 sorry. The sanitarians being replaced, relieved or 6 however you want to call it came after the meeting 7 with the governor. 8 MR. COLE: So if I understand you 9 correctly, prior to that meeting, did you not recall 10 or did you not know whether the sanitarians had been 11 reassigned prior to the meeting with the governor? 12 THE WITNESS: No, I knew that they had been 13 reassigned. I just wasn't sure if the reassignment 14 had come before the meeting with the governor or 15 after the meeting with the governor. I knew it happened at the time. I just needed some refreshment 16 17 as far as what the time frame was. 18 BY MR. GICALE: 19 Did you have any discussions with anyone 20 else other than those people at that meeting? 21 Like I say, George Harper, Terry 22 Brumbelow -- Terry is now the program director, yeah, 14 1 program director of the general sanitation section. 2 I call it the general sanitation section, it's 3 actually the environmental program services. He is a member of the division. 4 5 Anyone else? 0 6 Α My assistant director, Jim Shelby. 7 0 Anyone else? I don't think so. 8 Α 9 Q When do you --Oh, wait a minute, I take it back. Also 10 11 the assistant bureau director, Faye Dobbins, Lex's 12 wife, but it wasn't to the extent of all the others. 13 I just more or less gave her an update of what I was 14 trying to find out. 15 When was it you first heard about problems 16 at Maple Creek Farms and its sewage disposal system? 17 If I remember, I think it was around 1983, 18 1984. We signed an MOU in April of 1984, and I knew 19 there was some problems out there before then, or I

had heard about some problems out there before then.

Were you briefed by Mr. Dobbins about the problems?

Now, how were you briefed on the problems?

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1 A I believe so.

Q Were those oral briefings or did he give you some memoranda?

A No, things like that, when it looks like something is about to, you know, in the first throes of a problem, I usually just get oral communication.

Q Well, what were the problems as Mr. Dobbins explained them to you? Strike that.

explained them to you? Strike that.

Did you hear about the problems directly

from Mr. Dobbins or did you hear about them through someone else?

A I thought it was from Lex.

Q And what did he tell you the problems were on the property?

A It's not verbatim. You know, just roughly, about just problems with soil problems, septic tanks, possibility of septic tanks malfunctioning, things like that. That's really about it.

Q Did he tell you about conversations that he had with McDougal with respect to clearing those problems up?

A With those he had given me or I had seen

letters, but I don't remember if it was -- I don'tthink it had gotten to that point yet.

Q Well, did he show you, for instance, a copy of the memorandum of understanding executed on June

23, '83?

A Yeah, but he --

Q And marked for identification as DKSN 013438 through 439, which required, among other things, that all lots contained in Maple Creek Estates were to be a minimum of three acres.

A Be a minimum of three? Yes.

Q Did he make you aware of that agreement?

A He told me they had signed an MOA, an MOA, and at the time he may have shown me that at the time, but when you said first contacted, it was more or less a verbal communication type thing that there were problems out there. This was not the first

were problems out there. This was not the firstcontact that I think he had with McDougal, I don't

19 believe, was it?

Q So since this is dated June 23, 1983, you heard about this sometime earlier than June 23, 1983?

22 A Yeah.

Q Now, did Mr. Dobbins indicate to you that he was concerned about the soil suitability and that he felt that there should be some kind of community sewage disposal system on the property?

A I can't remember if that came up before that 1983 agreement. I know we had talked about it, but exactly when we talked about public sewer, I really don't remember.

Lex did say that there was a section over there at Maple Creek that was going to have community sewer, but I wasn't sure if he was talking about the houses or just the business area. It just kind of runs together. I know in that meeting we had in 1984, we finally sat down, I think, and asked McDougal to sewer all of or most of it.

Q The meeting you're referring to resulted in this memorandum of understanding dated April 26, 1984 and marked as -- for identification as DKSN 013288; correct? Is that the meeting and the memorandum

20 you're referring to?

21 A Yes.

Q And it was in that meeting that McDougal

agreed to provide sewer system to serve Maple CreekFarms, except lots 300 through 340; correct?

A Yes.

Q Now, during the meeting to discuss this proposed agreement, did Mr. McDougal express any reluctance to go along with this agreement at that time?

A Reluctance? I'll tell you the main thing I remember about the meeting. I don't know how long it lasted; I don't know what all was said; but in the meeting, Mr. McDougal, in my opinion, was extremely brash, disrespectful, arrogant, butting in and saying, we won't do this; I don't remember him saying anything like that.

He did end up signing it, but now he did throw it back across at me after he signed it and said, as far as he's concerned, it wasn't worth the paper that it's written on.

Q Did he refer to you and an individual by the name of Bruno Kirsch as incompetent bureaucrats at that meeting?

A I wouldn't doubt it.

19 SOBs? 1 0 2 A I wouldn't doubt it. 3 Did he tell you the memorandum was 0 4 worthless and that the governor was his good friend? 5 I don't remember him saying the governor was his good friend. By that time we knew that he 6 7 and the governor knew each other. How did you know that? 8 9 A I think Lex told me. How did it come up? 10 11 Just shoptalk. I don't think it was in this meeting. At this meeting I think we had already 12 known that McDougal and the governor knew each other 13 14 and were friends. 15 Well, had McDougal been bragging about it to you or Mr. Dobbins or someone else at the 16 17 department? 18 Not to me. I didn't talk to McDougal that 19 much. Like I say, the only thing I can recall is it came up as far as shoptalk. If McDougal did make a 20 threat as far as the governor's office, I really 21 22 don't remember that. I don't remember him calling us 20 1 unscrupulous -- what did you say? 2 Incompetent bureaucrats. 3 A I wouldn't doubt that. After dealing with 4 the man, I wouldn't doubt that. 5 MR. COLE: But do you think if he had said 6 something at that meeting about the governor, you 7 would recall it? 8 THE WITNESS: Tell you the truth, I'm 9

would recall it?

THE WITNESS: Tell you the truth, I'm trying to look back, like I say, over those years, because I have had so many people throw the governor's name at me as a threat, and it just -- you know, I've just gotten to the point of just letting it go over my head.

MR. COLE: Business as usual?

MR. COLE: Business as usual?

THE WITNESS: Yeah, really. And my feeling is that, hey, if you want to take that shot, go for it, but now again, that was back in 1983. I was a little bit more impressionable back then than I am now. But I think I got more -- I was more irritated with his brother-in-law, Senator Henley, he was also at the meeting. But again as for as what the

21 at the meeting. But again, as far as what the

22 Senator said, I really do not remember.

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 1
             BY MR. GICALE:
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              Why was his brother-in-law, Senator Henley,
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     at the meeting?
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         Α
              Why was he there?
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              At the meeting.
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              I don't know, I don't know. As far as
     threatening us, as far as using legislative power,
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 8
     whatever, to threaten us, I don't recall him even
     saying that. A lot of times people will come into
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     our office and they will bring a politician with
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     them. I guess for -- just to show that -- clout or
     something like that. That's happened a number of
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     times.
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             But really, as far as McDougal saying that,
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     one of my staff said that he called me an SOB and I
     really -- I don't remember it, I really don't. I
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     mean, I don't hold the man in high esteem anyway, so
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     it would be a lot easier to say yeah, that's right,
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     he's this and that, but I really don't know.
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             Now I'm going to show you what's marked for
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     identification as an exhibit marked Dobbins 1.
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     There's no date on this, but I believe it's June of
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     1984. Is this a copy of a letter Mr. Dobbins sent to
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     you in '84 with respect to his dealings with McDougal
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     and that property, if you recall?
            (Witness reviewed the document.)
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 5
             I don't recall it. However, I remember
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    seeing it, I think, in the packet Lex gave me, also
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     in files we have at the office. I think this led to
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     a letter I sent McDougal.
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            Do you have a copy of that? Dated July 2,
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     '84?
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             I don't know, but it's almost practically
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    the same thing as Lex outlined in his.
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            MR. GICALE: Off the record.
14
            (Discussion off the record.)
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            BY MR. GICALE:
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             Showing you what's marked for
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    identification as GD 0173 through GD 0174. This is a
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    letter dated July 3, 1984 to James McDougal from
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    you. Is this the response to Mr. McDougal's letter
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            MR. COLE: You mean to Mr. Dobbins's
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letter?

BY MR. GICALE:

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Q Yes, I'm sorry, Mr. Dobbins's letter.

A I believe so. I believe it is.

Q Now, why at that point were you responding

to Mr. McDougal as opposed to Mr. Dobbins?

A The only thing I can -- well, again, here we go as far as trying to remember back then. I can only recall the way we have done things in the past on other issues, not just McDougal, and that is a lot of times if the local sanitarian feels that they are not getting anywhere with the developer, with a food service operator, with a landowner, whatever, what we will do at the state office sometimes is we will write a letter under our letterhead and my signature to see if that would be enough to influence the people to come around or to comply with our wishes.

Q Is that what happened here?

A I would think so. I would think so, because like I say, when you read Lex's letter for the most part, those two things on site protection and, what was the other one, site protection and drainage? Site protection and site drainage I think

And also in some cases too, if a

he mentions in his.

sanitarian, if there is a situation coming in to where there might be a seemingly contentious relationship between a property owner or landowner and -- an establishment owner, somebody like that, and a sanitarian, sometimes we will try to take the burden off that sanitarian or try to help out with it by sending something like that under our signature. Some people are more apt to react if you have a state logo on the top of the letter rather than a county logo, and the only thing I can think is maybe that's what happened here.

MR. COLE: Had a contentious relationship developed between Mr. Dobbins and Mr. McDougal at that time, do you recall? And I'm focusing on the time of the letter, not what may have happened later.

THE WITNESS: The letter was July 1984. I'm thinking by that time, it was getting to a point to where there was beginning to be a contentious relationship between Mr. McDougal and all of us, I

25 1 think. I mean, like you say, he's sitting here at a 2 meeting calling me incompetent bureaucrat and SOB and all this other stuff, and I would imagine back -- as 3 4 far as knowing for sure that yes, it was, I don't know. I really don't recall, but I do know that 5 6 there was a contentiousness with Mr. McDougal with just about anybody in government that he was dealing 7 with from our agency. 8 9 BY MR. GICALE: 10 Q So even though he signed this agreement on April 26, '84, it was clear with respect to his 11 12 comments that he didn't think the agreement was worth 13 much of anything? 14 Yeah 15 Would that be a fair assessment? 0 16 Yes, yeah, very much. And the main thing I 17 was just happy with, we had his name on a piece of 18 paper. 19 0 Now, up to that point did you have any 20 disagreement with respect to the way Mr. Dobbins was making his decisions and conducting himself with 21 22 respect to this piece of property, and his 26 1 relationship with Mr. McDougal and McDougal's 2 representatives? What I remember of it, I didn't. 3 4 I'll show you what's marked for 5 identification as GD 0176, a document dated July 17. 1984 to William Teer from James McDougal, wherein he 6 7 responds to your July 3 letter saying that he's in 8 agreement with your recommendations; correct? 9 Uh-huh. I'm sorry, yes. 10 0 Is that a copy of the letter you received at that point in 1984? 11 12 Yes, according to this date, yes. See, 13 there were times throughout this whole process that we kept hearing from McDougal, from his people, that, 14 15 you know, we have plans for sewer, we're moving ahead 16 with it, we're going to do all this stuff. He kept 17 throwing these little, how do I want to say it --18 Q Kept promising to comply?

A Promises, yeah, he kept throwing these little promises out there that, yeah, we're going to do this. And we kept biting, we kept saying okay, we're trying to work with you, we're trying to do

27 this and trying to -- and at the end nothing was ever 1 done. I think we finally realized it maybe in '88. 2 3 '89, something like that, that this thing was going 4 nowhere. And so it never was a community sewer 5 0 6 system? 7 Huh-uh, no, no. A 8 Now, do you --0 9 As a matter of fact, just for you-all's 10 information, I don't know if Lex told you, but there 11 is a group of guys that are trying to buy up that property, they may have already bought it, trying to 12 13 get sewer over there now. Nothing to do with McDougal, as far as I know. 14 15 O Do you know whether or not in August of 1984, McDougal hired an attorney by the name of Larry 16 Crane, who was concerned about looking at some 17 18 records of Lex Dobbins's because of some statements 19 he had perhaps made to a prospective purchaser which 20 caused a purchaser to back out of purchasing a home? 21 I remember Larry Crane. I remember 22 McDougal hiring him, or it was McDougal's attorney. 28 1 He came into our office and wanted to take a look at 2 our records. I believe as far as Maple Creek goes. and I remember him talking to me and at that time he 3 said something about -- wait a minute. I think he 4 5 said something about, okay, as far as harassment by 6 Lex. 7 0 He told you he had been harassed by Lex Dobbins? 8 9 He said --Α "He" is the attorney or "he" is McDougal? 10 11 No, "he" is the attorney, and he said Lex 12 had been harassing McDougal and he wanted to get 13 copies of our records. Now, at that time I don't recall if he said 14 15 whether or not they wanted Lex's job, you know, when 16 he met with me, but there's so many people we deal 17 with on a daily basis that say that they want our jobs, so, I mean, dealing with Larry Crane was like 18 dealing with some of these others. I mean, it just 19

goes over the head. I let him look at the records

like I am supposed to under the law, and that's about

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mainly it.

29 1 Showing you what's marked for 2 identification as DKSN 014314. It's a memorandum 3 from Jim McDougal dated January 17, 1986 and unfortunately does not have a "to" section but it 4 refers to state sanitarian William Teer and, first of 5 all, direct your attention to that memo and it refers 6 7 to you in the last paragraph, paragraph 3, I 8 believe. 9 (Witness reviewed the document.) Have you ever seen this memorandum? 10 11 No. Can I have a copy of it? 12 First of all, could you take a glance. 0 Specifically review paragraph 3. 13 14 (Witness reviewed the document.) 15 Okay. Wait a minute. Can I see it first? 16 No, go ahead, review the entire document if 17 vou'd like. 18 A No, I haven't seen this. I really don't 19 recall seeing this one. But we don't know who it 20 went to, huh? Well, one of the things the third paragraph 21 22 says is that "strict written instructions from Teer 30 1 to county sanitarians to not discuss our subdivision 2 with our customers." 3 Do you know what McDougal could have been referring to in this memo, assuming he authored this 4 5 and stated this? 6 A Huh-uh. The only thing that I could --7 well, you mentioned earlier about, what was it, what 8 Crane was talking about as far as Lex talking to --9 Prospective purchasers? Yeah. That's probably having to do with 10 Α 11 that 12 Well, did you issue some directive to sanitarians saying that they could not discuss 13 McDougal's subdivision with customers? 14 15 I didn't think I did, huh-uh. 16 Well, did there come a point in time in 17 early 1986 when you learned that McDougal's complaints started to increase, and that he decided 18 to seek a meeting with the governor with respect to 19 Mr. Dobbins's treatment of him and his subdivision? 20

21 A I'm sorry, did you ask a question or make a 22 statement?

		31
1	Q Well, let me restate that. It was a long	
2	question.	
3	A I'm sorry. I'm from Arkansas.	
4	Q When did you first learn that McDougal had	
5	sought a meeting with the governor on Maple Creek	
6	Farms?	
7	A Honestly, I don't know. I really don't	
8	remember.	
9	Q Well, who told you	
10	A Since I wasn't involved in it, it didn't	
11	make me any difference.	
12	MR. COLE: Do you remember whether he kne	W
13	about it before or after it occurred?	
14	THE WITNESS: No, not today because, like I	
15	say, I had to sit down with staff to try to remember	
16	when these reassignments took place. I couldn't	
17	remember if they took place before the meeting or	
18	after the meeting.	
19	BY MR. GICALE:	
20	Q Well, you attended the meeting, though?	
21	A No, I did not.	
22	Q You did not participate in the meeting?	
		22
		32
1	A No, huh-uh, no, not at that meeting.	32
1 2	A No, huh-uh, no, not at that meeting. Q Which meeting did you attend or participate	32
1 2 3	A No, huh-uh, no, not at that meeting. Q Which meeting did you attend or participate in?	32
1 2 3 4	A No, huh-uh, no, not at that meeting. Q Which meeting did you attend or participate in? A In regards to what?	32
1 2 3 4 5	A No, huh-uh, no, not at that meeting. Q Which meeting did you attend or participate in? A In regards to what? Q You seem to suggest there was another	32
1 2 3 4 5 6	A No, huh-uh, no, not at that meeting. Q Which meeting did you attend or participate in? A In regards to what? Q You seem to suggest there was another meeting with respect to this that you may have	32
1 2 3 4 5 6 7	A No, huh-uh, no, not at that meeting. Q Which meeting did you attend or participate in? A In regards to what? Q You seem to suggest there was another meeting with respect to this that you may have attended and	32
1 2 3 4 5 6 7 8	A No, huh-uh, no, not at that meeting. Q Which meeting did you attend or participate in? A In regards to what? Q You seem to suggest there was another meeting with respect to this that you may have attended and A Oh, no, I have attended you know, the	32
1 2 3 4 5 6 7 8 9	A No, huh-uh, no, not at that meeting. Q Which meeting did you attend or participate in? A In regards to what? Q You seem to suggest there was another meeting with respect to this that you may have attended and A Oh, no, I have attended you know, the McDougal meeting that McDougal was there, we wrote	32
1 2 3 4 5 6 7 8 9	A No, huh-uh, no, not at that meeting. Q Which meeting did you attend or participate in? A In regards to what? Q You seem to suggest there was another meeting with respect to this that you may have attended and A Oh, no, I have attended you know, the McDougal meeting that McDougal was there, we wrote the '84 MOU. I attended a meeting with the	32
1 2 3 4 5 6 7 8 9 10 11	A No, huh-uh, no, not at that meeting. Q Which meeting did you attend or participate in? A In regards to what? Q You seem to suggest there was another meeting with respect to this that you may have attended and A Oh, no, I have attended you know, the McDougal meeting that McDougal was there, we wrote the '84 MOU. I attended a meeting with the sanitarians when we were told to bring them in, and	32
1 2 3 4 5 6 7 8 9 10 11 12	A No, huh-uh, no, not at that meeting. Q Which meeting did you attend or participate in? A In regards to what? Q You seem to suggest there was another meeting with respect to this that you may have attended and A Oh, no, I have attended you know, the McDougal meeting that McDougal was there, we wrote the '84 MOU. I attended a meeting with the sanitarians when we were told to bring them in, and it wasn't just Maple Creek. It was the other	32
1 2 3 4 5 6 7 8 9 10 11 12 13	A No, huh-uh, no, not at that meeting. Q Which meeting did you attend or participate in? A In regards to what? Q You seem to suggest there was another meeting with respect to this that you may have attended and A Oh, no, I have attended you know, the McDougal meeting that McDougal was there, we wrote the '84 MOU. I attended a meeting with the sanitarians when we were told to bring them in, and it wasn't just Maple Creek. It was the other McDougal properties; Brittany Point, Eden Park, and I	32
1 2 3 4 5 6 7 8 9 10 11 12	A No, huh-uh, no, not at that meeting. Q Which meeting did you attend or participate in? A In regards to what? Q You seem to suggest there was another meeting with respect to this that you may have attended and A Oh, no, I have attended you know, the McDougal meeting that McDougal was there, we wrote the '84 MOU. I attended a meeting with the sanitarians when we were told to bring them in, and it wasn't just Maple Creek. It was the other McDougal properties; Brittany Point, Eden Park, and I was in that meeting.	32
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1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16	A No, huh-uh, no, not at that meeting. Q Which meeting did you attend or participate in? A In regards to what? Q You seem to suggest there was another meeting with respect to this that you may have attended and A Oh, no, I have attended you know, the McDougal meeting that McDougal was there, we wrote the '84 MOU. I attended a meeting with the sanitarians when we were told to bring them in, and it wasn't just Maple Creek. It was the other McDougal properties; Brittany Point, Eden Park, and I was in that meeting. Q Who told you to bring them in? A As far as the exact person, to this day I	32
1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17	A No, huh-uh, no, not at that meeting. Q Which meeting did you attend or participate in? A In regards to what? Q You seem to suggest there was another meeting with respect to this that you may have attended and A Oh, no, I have attended you know, the McDougal meeting that McDougal was there, we wrote the '84 MOU. I attended a meeting with the sanitarians when we were told to bring them in, and it wasn't just Maple Creek. It was the other McDougal properties; Brittany Point, Eden Park, and I was in that meeting. Q Who told you to bring them in? A As far as the exact person, to this day I don't remember. It was either Jerry Hill or Tom	32
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33
 1
    show that we're not being impartial or anything like
 2
    that, we were going to transfer or reassign
    sanitarians to those, to the McDougal projects.
 3
             Well, did they tell you --
 4
 5
        Α
             Again, I do not --
 6
             Did they tell you to bring them in after
 7
    the meeting that occurred with the governor or prior
    to the meeting that occurred with the governor or
 8
 9
    both?
10
        Α
             I understand it to be after the meeting.
11
        0
             So there was one meeting with the
12
    sanitarians?
13
             Yeah, that is what I could not get
    straight. That's why I had to go back and ask --
14
    that's what I was asking. That's one of the reasons
15
16
    or one of the things I came up with from meeting with
17
    Hill and Butler when we got the subpoena, and also
    talked to Lex because he was in on the meeting.
18
19
            MR. COLE: So just to be as clear as
20
    possible, and this goes back to the question I asked
21
    you before, is the only knowledge you have what you
    were told last week when you had the meetings with
22
                                                             34
    Mr. Butler and Mr. Hill, or did that refresh a
 1
    recollection that you previously had of your direct
 2
 3
    knowledge of the events at the time?
4
            THE WITNESS: The only thing I can -- as
 5
    far as refresh, I still don't remember.
6
            MR. COLE: So basically you're relying on
7
    what your staff told you or what others in your
 8
    department told you last week?
9
            THE WITNESS: Right.
10
            MR. COLE: I just want to distinguish what
11
    you know yourself and what others have told you.
12
            THE WITNESS: And maybe, you know -- there
13
    would be a lot of things as far as I don't know.
    That's why I'm throwing in "I think," okay, because I
14
    am really trying to give you the answers.
15
16
            BY MR. GICALE:
17
        O I understand, I understand.
18
             And I don't want to sit up here like a
19
    broken clock or something and say I don't know, I
20
    don't know.
21
        0
             So you recall a meeting where these people
```

were reassigned?

			35
1		Yeah.	
2	Q	And who was present at the meeting?	
3	Α	1110 0001100110010 10 10 10 10 10 10 10	
4	a sanita	rian in White County, Lex in Saline County,	
5		ownsend for Brittany Point, Jerry, Tom. That	
6	may ha	ve been it.	
7		MR. COLE: And yourself.	
8		THE WITNESS: Yes.	
9	*	BY MR. GICALE:	
0	Q	Did anybody, either Mr. Hill or Mr. Butler,	
1	discuss	the conversation that McDougal had with the	
2	governo	or?	
3	Α	No, not with all them, huh-uh.	
4	Q	Not what?	
5	Α	Not in front of those people.	
6	Q	Was there a meeting prior to the meeting	
7	with the	ese people?	
8	Α	Not that I can recall. You mean with just	
9	me and		
20	-	And Butler and Hill.	
21	Α	Not that I can recall.	
22	Q	Did you ever come to learn what was said at	
			36
1	the mee		
2		MR. COLE: The meeting with the governor?	
3		BY MR. GICALE:	
4	_	With the governor.	
5		Yeah, Jerry told me.	
6	Q	•	
7	A		
8	Q		
9	Α	Yeah, he told me.	
0		MR. COLE: Before or after the meeting with	
1		itarians? I'm not trying to make this	
12		t, but it's an important distinction for our	
13	purpose	es, or at least for my purposes.	
14		THE WITNESS: I think it was after the	
15	meetin	g with the sanitarians.	
16	0	BY MR. GICALE:	
17	Q	What did he tell you about the meeting that	
18		ad with the governor and what did they tell you	
19	about v	what McDougal said about Dobbins?	
20	A McDa	Well, now, Jerry primarily told me that	
21	INICDOL	agal attacked me and Butler, again bureaucrats,	

if I remember, incompetent bureaucrats, ranted and

1 raved.

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Q He attacked Butler as being an incompetent bureaucrat?

A Uh-huh, and Jerry, the Health Department people. As far as attacking Lex himself, he didn't say anything specifically about Lex. He just got off on the department as such. Jerry kept saying that his face got extremely red at one -- Jerry Hill's face got extremely red and he wanted to jump in the middle of McDougal, but he didn't.

He said that Clinton seemed surprised at the way McDougal was reacting, and that is really it. He did not say anything about Clinton told them

14 to reassign anybody.

Q Well, did he tell you how the decision was made to reassign Dobbins and these other sanitarians?

A No, I don't remember if they all came up as far as because of Lex or if anything else came up on the other projects.

Q Well, who made --

A What we have done in the past is when we have a situation going similar to what we had with

38

- 1 McDougal, in order to show that we are trying to bend
- 2 over to be customer conscious and pro customer, is
- 3 that we have reassigned people, I mean, we've
- 4 reassigned people all the way back to 197- -- late
- 5 1970s. As a matter of fact, some of the most recent
- 6 things we've had was, let me see, we reassigned a man 7 on an establishment as of this year, I believe.
- 8 Q Well, who made the decision to reassign
 9 Dobbins and the other sanitarians?
 - A As far as I recall, Tom.
- 11 Q Tom Butler?
 - A Uh-huh.
 - Q When did he tell you that he had made the decision to reassign these people?

A Well, I'm thinking that if we had a meeting with Hill and my assistant and Tom, it was told in that meeting, but again, I don't remember if we had another meeting before we met with all the sanitarians or not.

MR. COLE: So do you know whether you knew going into the meeting with the sanitarians that they were going to be reassigned? Or did you learn it for

1 the first time at the meeting? THE WITNESS: I must have known it before. 2 3 but I don't recall how. You know, if somebody dropped a hint, if we'd had a full-fledged meeting, I 4 5 just don't remember. 6 BY MR. GICALE: 7 But, in any event, it was Butler as opposed 8 to Hill that made the decision to reassign them? 9 Oh, yeah, Tom. Tom makes those decisions. Well, usually Tom makes those decisions when we have 10 11 had reassignments before. Now, those back in '70 Tom 12 wasn't in his position to do that. 13 Did Butler tell you why he was making 14 that -- the decision to reassign Dobbins and the 15 others? 16 Α I'll put it this way. He probably did

17 because he always has -- whenever he, you know, made 18 a decision on that, you know, like that as far as reassignment, he has always told us. So I would 19 20 imagine he probably did at that time.

> But today you don't remember whether --0

I don't recall, no. Α

-- the reason he gave?

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2 A Huh-uh. 3 MR. COLE: What's the reason he generally 4 gives for reassigning? 5 THE WITNESS: The reason he generally gives 6 is that, again, we're trying to show that we are 7 being fair to the people. If an accusation comes up against a sanitarian or us being against a person, 8 9 trying to harass them, trying to be arbitrary, he will reassign somebody in the hope that the 10 11 reassignment will show that we are trying to be fair. 12 MR. COLE: And do you have any recollection 13 that it was anything other than that, and by that I 14 mean any reason other than that on the occasion that 15 we're talking about?

THE WITNESS: Not to me. I'll put it this way. If it had come from the governor's office, as much as we talk shop around that place, if it had come from the governor's office, I think we would have heard it after this much time.

MR. COLE: So what you're saying is you've never heard from any source that it came from the

governor's office?

THE WITNESS: No, I've never heard that.

The people who were in that meeting from our side had to be, if I remember right, Dr. Saltzman, the director, Jerry Hill and Tom Butler. I don't remember of anybody else on our side being there.

And, like I say, at that time Jerry and I

And, like I say, at that time Jerry and I and Lex were close enough to where I think it would have come out. I think Jerry would have been extremely frustrated and I think Jerry would have let us know it.

BY MR. GICALE:

Q Do you know whether or not Hill told you that McDougal had accused Dobbins of harassing him?

A I don't remember if Hill had told me. Like you say, Larry Crane may have been the first one that mentioned it to me. I think there's a lot of things that Lex does being exuberant about his job, and a lot of people do take that as harassment, and that's why, you know, if I had had a notification that Lex was harassing somebody, it would not have been the first time. But after working with Lex as many years

as I have, I also know that what may be harassment to some people may be exuberance on Lex's part. I mean, Lex really cares about his job very much.

Q He really cares about how these developments are treated and the systems that your department is responsible for?

A Yes, yes. As a matter of fact, Lex used to head up the -- well, I say head up, the septic tank section. Lex was a sanitarian supervisor in the septic tank section when he was in our office. He was one of the most knowledgeable people we had in the state on the septic tank program and also the septic tank regulations. That's why a lot of times when it came to technical expertise or technical opinion or something like that, even with Lex being down in Saline County, I would call him if we had a question come up, rather than Mr. Glover, who was the head of the section. Does that make sense?

Q I understand what you're saying. So with respect to Maple Creek Farms, was there any aspect of Dobbins's decisionmaking that you disagreed with from the time that you became involved in it to the time

1 that he was reassigned?

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Not that I recall. The only thing I could say, if anything, is Lex's exuberance over any project. I keep telling Lex he needs to calm down, we just need to take things a step at a time and it will work out. I think you guys have been here with him two hours. I'm sure he came across as being very

8 caring, very exuberant as far as his job goes. 9 Well, as it turns out, this project,

despite McDougal's promises, the community sewer 10 system that Dobbins was concerned about never came to 11 12 pass: correct?

13 A Uh-huh, uh-huh.

So he had legitimate concerns; correct?

15 Α Yes.

16 0 Now, after the decision was made to remove 17 Dobbins and the other sanitarians, do you recall

having anything else to do with the Maple Creek Farms 18

project and Dobbins's successor, Mr. Brumbelow? 19

I remember -- let me see. Brumbelow called 20 21 me out on two sites. I don't remember exactly what 22 they were, I mean the details about them. I remember

44

1 one there was a house, I don't know if a house was

2 halfway finished before the people decided to get a

perk. I know there was some problems with the perk 3

data on it. I don't remember how that was worked 4

5 out, what was finally decided on it. And then there

was another time Brumbelow called me out, had to do 6

7 with a lot, I don't remember the year. Brumbelow

said that the lot was unsuitable and I backed him on 8

9 it and I think at that time Madison, or whoever was

handling Maple Creek Farms, I think ended up trading 10

11 lots with the people. I remember those two

12 instances.

13

Do you remember any other incidents after 0 that?

14 15 If I remember right, I think we were having 16 some trouble with some individuals, like, I believe

there was one gentleman that bought a lot out there 17 and he wanted to divide it. Wait a minute, I don't 18

19 know if Lex was involved in that one or not. I think

20 his name was Cooney or Coney or something like that,

21 but that was one situation.

22 And then we had another one with a

1 Dr. Senati, and I don't remember what that situation2 was.

Q Do you recall just prior to or at about the time that Dobbins and the others were reassigned, that Butler met with you and those people and said that none of you were to talk with anybody about Brittany Point, Eden Park or Maple Creek in or outside of the office?

9 A No. I'm not saying it didn't happen. I 10 don't recall it. I know all the guys would call in. 11 They gave us a status report on the three projects, 12 but as far as Butler saying, you know, not to talk

about it, really, I don't recall.
 O Did you know a person by the name of Janice

15 Choate?

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16 A Yes.

17 Q Who was she?

18 A At the time she was a governor's aide.

19 Q Did you deal with her directly or did you 20 deal with her through Butler?

A Oh, at times I dealt with her through the Bureau office, through Hill's office, and at other

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times, after I got to know her some, I dealt with her
on some matters. See, at the time she was governor's
aide, but I believe she was liaison with Health

aide, but I believe she was liaison with Health

Department on a lot of cases or a lot of times, we

5 would get complaints, various complaints around the

6 state, it would come from her to us and she would

give us the complaint; we'd handle it; I'd send the results back to her, either by phone or send a letter

9 to her, something like that, saying it had been taken

10 care of.

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Q Do you recall, ultimately, it was the conclusion of the Department that whoever was assigned to the lots out there, the conclusion was going to be the same, that the soil was not suitable for septic tanks?

A I think it was more suspicion than taking for granted, because whatever else failed, those lots still had to stand on their own.

Q I'm going to show you what's marked for identification as DKSN 013419 and 420. This is a copy of a document. I just wonder if you recognize the handwriting.

47 (Witness reviewed the document.) 1 2 And if you've ever seen that document 3 before. 4 Α Huh-uh. 5 O That's a no? No. I'm sorry, no. Let me ask you this 6 Α 7 about the document. It mentioned Butler --8 MR. GICALE: Off the record. 9 (Discussion off the record.) 10 BY MR. GICALE: So it's your testimony that you do not 11 recall being told any other specifics of the 12 conversation that occurred with McDougal and Governor 13 14 Clinton and the others from your department; correct? 15 No, right. Yes. 16 And it's also your testimony that you do 17 not remember today whether or not Mr. Butler gave you 18 a reason for the decision he made to reassign Dobbins 19 and the others; correct? 20 Α Right, yes. 21 MR. COLE: I'm sorry, I think I recall his 22 testimony was that he believed that Mr. Butler gave 48 1 him a reason, but he can't recall today what 2 Mr. Butler told him. 3 THE WITNESS: If it was anything like it 4 has been in the past, as far as recalling anything, 5 what was said. I don't recall it. 6 BY MR. GICALE: 7 Q It was his practice to give you a reason? 8 Α Yes. 9 You don't remember whether or not he gave 10 you a reason and therefore you don't remember what 11 the reason was; correct? 12 Right, right. Α 13 MR. COLE: Well, just to be clear because

emphatic that he believed Mr. Butler had given him an explanation.

And so just to follow up on what Mr. Gicale said, would it have been unusual for him not to have given you an explanation of a reassignment of this nature?

THE WITNESS: Yes.

as I heard his testimony the first time it came out,

it was slightly different, it was a little bit more

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1 MR. COLE: And while you can't recall one 2 way or another, at least you have no recollection of 3 not being given an explanation and thinking that was 4 odd at the time? And I realize that's a convoluted 5 question. If you don't understand, I'll try to ask 6 it better. 7 THE WITNESS: Yeah, do. 8 MR. COLE: What I'm saying is I -- you 9 don't recall --10 THE WITNESS: No, because I thought I 11 answered you honestly, but you're right, in the past 12 every time Tom ever did anything, he always gave us a 13 reason. MR. COLE: And my question is a very simple 14 15 one. Do you, sitting here today, have any 16 recollection of him not giving you a reason in this 17 instance? 18 THE WITNESS: No. 19 BY MR. GICALE: And my simple point is, you just don't 20 21 remember the reason he gave you; correct? 22 Yes, but like I said before --1

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Go ahead. 0

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Every time Tom has ever made a reassignment, I may not -- I won't say I disagreed in every instance, but he has always given a reason, and it usually has been, you know, what he thought was best.

If we could show -- or the best way to show that we were trying to be fair with an individual, and we are not trying to be arbitrary. When it has come to the point as far as Tom reassigning personnel, if I recall correctly, those are the reasons that come to mind, that he gave.

Now, how long did you work with Mr. Butler -- have you worked with Mr. Butler?

In what position? I mean Tom has been in the same building as I have since 1970s, but in his position as deputy director, is that what you're asking?

19 Well, is the building you're in just housed 20 at the Health Department?

At the Department, yes.

Q So he's been with the Health Department 1 since the '70s?

A That I know of, yeah. Put it this way, he was there when I transferred into the office in 1974, if I recall seeing him. I think I recall seeing him. I guess that's what happens when you start

nim. I guess that's what happens when you start

6 getting old and start forgetting. I keep on

7 forgetting, but I think he was there in the mid-'70s,

8 when I came in.9 O Well, v

Q Well, who was it --

A Now, as far as him being deputy director, he's been deputy director since, I believe, the early 2 '80s.

Q Who appointed him to that position?

14 A The director, the department director at 15 the time.

16 Q Who was, if you recall?

A I believe it was Dr. Saltzman, Ben

18 Saltzman.

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Q Now, are you aware of any pressure either Saltzman, Hill or Butler received from the governor's office or its representatives to have Dobbins or the

22 others removed or reassigned?

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A I don't, no. Like I say, if Hill had any,
I think after all these years, as close as we were, I
think I would have heard about it, and he has never
expressed that.

Q Do you know the governor?

A I know who he is. I've met him a couple of times at -- my wife is the executive director of Big

8 Brothers/Big Sisters in Pulaski County, and he has

9 been roasted by that group and also a roastee, a

10 roastee and a roaster. And I have shaken his hand.

11 Now, knowing him does not necessarily mean -- you're

12 not asking me whether or not I like him, are you?

13 Q No, I didn't ask that question. I just 14 wanted to know whether you knew him.

A Okay, yeah.

Just off the record?

17 Q No.

MR. GICALE: I have nothing further at this

19 point.

THE WITNESS: I was just going to ask you

21 something.22 MI

MR. GICALE: Off the record.

53 1 (Discussion off the record.) 2 BY MR. GICALE: 3 Who determined who would be Mr. Dobbins's 4 successor? 5 Α I didn't realize this until Lex said 6 something about it in the meeting with Hill and 7 Butler last week, but Lex says that he's the one that 8 offered Brumbelow's name up. 9 0 So Dobbins suggested Brumbelow? 10 Α Uh-huh, ves. O And you don't recall that independently; 11 12 that's what you -- you learned that last week when 13 you talked to Dobbins? 14 Yeah, yes. Like I say, it has been a long 15 time ago. Even looking over this documentation, I 16 couldn't recall it. There was a lot of things I 17 could not recall. 18 Well, were you aware of any pressure from 19 anyone to appoint Brumbelow to the project? 20 No. no. Α 21 Or any of the other sanitarians who 0 22 replaced the other sanitarians in the other counties? 54 No, no. A lot of times, on something like 1 2 that, we will get input from the supervisors, who they would want. We also kick it around our staff as 3 4 far as who is familiar with some of these projects, 5 who they can work with, and Brumbelow was also one of 6 the closer ones, he was in the adjoining county. 7 Even though there was a sanitarian, another 8 sanitarian in Saline County, and that's the county 9 Dobbins was in, if I remembered right, he was not 10 picked because of Lex's possible influence on him, so 11 we wanted to go outside. Lex thought that Brumbelow 12 would be a good pick. 13 MR. GICALE: I have nothing further. 14 **EXAMINATION** 15 BY MR. COLE:

Q I just have a couple of follow-up questions
on one area, Mr. Teer, and that has to do with the
reassignment of the sanitarians from Maple Creek and
the other developments after the meeting at the
governor's office. You described the practice that
had been followed in your department in situations

22 like this, and if I understood you correctly, you

testified that if a problem arose with the developer or other person that was regulated by your department, and they made complaints about an inspector, the general practice was to reassign and replace that inspector with someone else; is that correct?

A Uh-huh, yes.

Q And I realize that you did not attend the meeting in the governor's office that Mr. Butler and Mr. Hill and Dr. Saltzman attended, but if at that meeting Mr. McDougal had made statements about Mr. Dobbins, such as that Mr. Dobbins was harassing Mr. McDougal and was attempting to intimidate Mr. McDougal, would you have expected that Mr. Butler, having heard those statements, would,

16 under the normal procedures that you followed at that

17 time, have reassigned Mr. Dobbins?

A Yes.

Q And so, to your knowledge of the way your department worked at the time, the reassignment would have taken place as a matter of course if those allegations had been made, whether or not the

governor had been sitting there at the time?

A Yes. Now, that is not to say that every time we get a complaint on a sanitarian, first thing we do is reassign. It is usually after we get a number of complaints, polite complaints, or if they are strong in that it has been a number of occurrences.

Q How about a situation where there appears to be a personality conflict or a personal dislike has developed or serious personal disagreement has developed between someone who is regulated by your department and an inspector, is it appropriate in that instance to reassign the inspector?

A It has been done that way. I won't say appropriate or what, because I have not necessarily agreed with reassignment.

Q But that's the practice that's been followed?

A Yes. And like I say, it is not done willy-nilly, it is not done a large number of times. I can only recall about five or six times in the 20 some-odd years I've been there.

I, CARMEN BUNCH , the officer
before whom the foregoing deposition was taken, do hereby
certify that the witness whose testimony appears in the
foregoing deposition was duly sworn; that the testimony of
said witness was taken in shorthand and thereafter reduced
to typewriting by me or under my direction; that said
deposition is a true record of the testimony given by said
witness; that I am neither counsel for, related to, nor
employed by any of the parties to the action in which this
deposition was taken; and, further, that I am not a
relative or employee of any attorney or counsel employed by
the parties hereto, nor financially or otherwise interested
in the outcome of this action.

Notary Public in and for the District of Columbia

My Commission Expires MARCH 14, 1998



DEPOSITION OF TOM BUTLER IN RE: S. RES. 120

TUESDAY, DECEMBER 5, 1995

U.S. Senate,
COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS,
SPECIAL COMMITTEE TO INVESTIGATE WHITEWATER
DEVELOPMENT CORPORATION AND RELATED MATTERS,
Washington, DC.

Deposition of TOM BUTLER, called for examination pursuant to notice of deposition, at 3:35 p.m. in Room 534 of the Dirksen Senate Office Building, before BRENDA M. SMONSKEY, a Notary Public within and for the District of Columbia, when were present:

LOUIS J. GICALE, ESQ.
Majority Deputy Special Counsel
LANCE COLE, ESQ.
Minority Deputy Special Counsel
U.S. Senate
Committee on Banking, Housing, and Urban Affairs
534 Dirksen Building
Washington, DC 20510
On behalf of the Committee.

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1		PROCEEDINGS	
2	Whereu	pon,	
3		TOM BUTLER	
4	was call	led as a witness and, having first been duly	
5		was examined and testified as follows:	
6		EXAMINATION	
7		BY MR. GICALE:	
8	Q	Could you please state your name for the	
9	record.		
10	Α	Tom Butler.	
11			
12			
13	Q	Your present business address?	
14	Α	4815 West Markham, Little Rock 72212.	
15	Excuse	me. It is 72205.	
16	Q	Your present position?	
17	Α	Deputy director.	
18	Q	Of?	
19	Α	Of the Health Department.	
20	Q	And how long have you been deputy director	
21	of the H	Iealth Department?	
22	Α	1969 excuse me. 1979. 1979.	
-			
			4
1	Q	Deputy director of the Health Department	4
2	from 19	Deputy director of the Health Department 179 to the present?	4
2 3	from 19	Deputy director of the Health Department 179 to the present? Right. I believe that was the exact date,	4
2 3 4	from 19 A somewh	Deputy director of the Health Department 179 to the present? Right. I believe that was the exact date, here around in there.	4
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director of administrative services, and then I became deputy director somewhere around '79 or '80. Mr. Butler, this deposition is being conducted pursuant to Senate Resolution 120. The resolution establishes a special committee administered by the Banking Committee to conduct an investigation involving Whitewater Development Corporation, Madison Guaranty Savings & Loan Association, Capital Management Services, Incorporated, the Arkansas Development Finance Authority and other related matters. Section 1(b)(3)(A) and (B) of Senate Resolution 120 authorizes an investigation and public hearings into, A, the operation, solvency and regulation of Madison Guaranty Savings & Loan Association and any subsidiary, affiliate or other entity owned or controlled by Madison Guaranty

18 Savings & Loan Association, B, the activities,

19 investments and tax liability of Whitewater

20 Development Corporation as related to Whitewater

21 Development Corporation of its officers, directors

22 and shareholders.

This will be the focus of today's deposition. You were requested to testify last week. This deposition is being taken in advance of public hearings which are currently ongoing and we expect to possibly occur in early 1996.

It is possible that you might testify at those hearings. We are asking you a series of questions. You are obviously testifying under oath. If you don't understand a question, let us know. We will rephrase the question. The stenographer will prepare a record of questions and answers. The deposition will be treated as committee confidential until the commencement of the hearings.

Prior to the hearings, we will make available -- you will receive a letter from the committee telling you that you can come to the Senate to review a transcript of your deposition and make note of any corrections for transcription on an errata sheet. Since you are from out of town, we can make some kind of arrangement whereby you can review the transcript.

If you are called to testify at a public

7 hearing you will be permitted to have a copy of your 1 transcript four days in advance of your testimony. 2 3 You may be represented by counsel. I note you are here appearing alone today. Objections to the form 4 5 of questions will be noted for the record. Counsel may object on grounds of privilege or relevance. The 6 committee chairman may rule on objections where the 7 witness refuses to answer a question. 8 Do you have any questions at this point? 9 10 No. A Now, in preparation for your testimony here 11 0 today, did you review any documents? 12 Yes, sir. 13 Now, where did you obtain the documents you 14 O 15 reviewed? Most of them I had, but I also -- I started 16 17 pulling them together about a year, a year and a half ago, when I started getting telephone calls from 18 reporters. 19 I take it that you have a folder here and 20 0 these are copies of the documents or the originals of 21 22 the documents? They are copies. 1 Α Copies of documents you reviewed in 2 preparation for your testimony here today? 3 Right. Like I said, when I started pulling 4 them together, I got some of them from the division 5 6 of sanitarian services because I just pulled 7 everything together that we had. I would ask that you make these available 8 9 to the committee. 10 Sure. Α 11 0 So Mr. Kolinski, the clerk, can make copies 12 of them. 13 Α I brought an extra set for you all. You brought an extra set? 14 0 I am pretty sure. 15 Α That would help. 16 0 17 MR. GICALE: I think before we move further along, I think we should take an opportunity to look 18 19 at them for a moment. 20 MR. COLE: Let's go off the record.

MR. GICALE: Let the record reflect that

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(Recess.)

9 1 Mr. Cole and myself, we have reviewed the documents 2 that you brought with you today, and you have indicated that you would make them available to the 3 4 committee and we could copy them and return these to 5 you. MR. COLE: We confirmed that these are all 6 7 relevant and within the scope of our resolution. THE WITNESS: Okay. 8 9 BY MR. GICALE: Are the documents that you have produced 10 today all the documents that you believe are relevant 11 to your testimony today? 12 That's all I have. 13 Α 14 0 Did you speak to anyone about the testimony here today? 15 I talked with my lawyer when I called you 16 earlier this morning. I talked to my administrative 17 assistant. She asked me how things were going. That 18 19 was it 20 Prior to today, did you talk to anybody about what you would be testifying to today? 21 I talked with -- I talked a week ago with 22 1 Bill Teer, Jerry Hill, Lex Dobbins and I. We got all of our files together when we knew we were being 2 subpoenaed to make sure we had everything and we went 3 4 through the files. 5 Then I talked with Terry Brumbelow because he is over that section right now, and I wanted him 6 7 to bring me up to date on what we were doing now in case you wanted to know. I also went over the files, 8 9 because he also had obviously put together some of the notes back in '94, I think. 10 11 O Other than Teer, Hill and Dobbins in that 12 meeting last week, and Brumbelow, was there anyone 13 else you talked to about the substance of your 14 testimony? 15 Α No. 16 0 When did you first hear of Maple Creek Farms and its sewer problems? 17 Realize we are going way back. I am 18 assuming back in '94, but my real recollection of it 19 20 is --21 Are you talking about '84?

'84, excuse me. My real recollection of it

Q

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11 is probably in '86. I knew we had problems there. 1 You knew you had problems in '84 or '86? 2 3 '84 through '86, I knew we had problems. 4 Who brought those problems to your 0 5 attention? 6 A I can't recall any specific meeting, but I 7 know it would have to be Bill Teer and Jerry Hill. That would be the two people that I would have worked 8 9 with on the programs. 10 Did they describe to you what the problems 11 were with respect to Maple Creek Farms? We were having a lot of trouble with the 12 developer. It was marginal soil, at best. We were 13 14 having mal --15 0 Marginal what? 16 Soil. We were having malfunctions out there. About that same time, Ms. McDougal was 17 18 running an ad on television where she rode a white 19 horse around. That sticks out in my mind. Around 20 this time she was trying to sell property. 21 MR. COLE: The white horse ads were for the Maple Creek development? 22 12 1 THE WITNESS: Yes. We always laughed 2 because it would show a pond or what looked to be a 3 lake, but it wasn't very large. MR. COLE: Standing water? 4 5 THE WITNESS: Right. When you look there -- I have grown up in Little Rock, so I knew 6 7 pretty much about the property. BY MR. GICALE: 8 9 Now, you knew McDougal to be the owner of the property? 10 I knew he was the land developer and he was 11 the one we were having troubles with, yes. 12 Did you talk to him in '84 --13 Q 14 Α No. 15 -- or '85 about this? 0 16 Α No, I did not. 17 Most of what you knew came through Teer and 0 Hill? 18 19 The way our organization worked back then 20 is that we tried to keep things at the division level

While this one was sticky, it was sticky

unless it got sticky.

21 22

1 from the standpoint of we have a person, we are
2 having troubles getting him to do what we wanted him
3 to do, they, our staff. I knew about it from that
4 standpoint. As far as getting in and talking to him

4 standpoint. As far as getting in and talking to him, 5 he had not requested one, and at that point in time

the staff felt they were moving him as fast they could and they hadn't called me in.

Q You are aware of the fact that he entered into an agreement with the department to hook up these parcels to a community system; correct?

A Right. He kept jacking us around. It is part of the conversations I remember having, we would think we had worked it through but we will believe it when we see it type of deal. There wasn't a lot of confidence, even though we signed the agreement that we knew it was going to be one of these constant pushing to get the man to say what he said he was going to do.

Q Throughout '84 and '85, were you in agreement with the position your staff people were taking?

A Right. It was fairly common. You get a

land developer who is not completely cooperative, you try to move him along as best you can and move him toward what we wanted, which is what we wanted, we wanted him to sewer. When he gave us the agreement, from our standpoint, he was going to sewer it at some point in time. So, yes, we were moving him in the direction we wanted him to go.

Q Now, were you aware of the fact that he had an attorney, Mr. Crane, contact the department about some complaints with respect to prospective purchasers?

A No. I have never met Mr. Crane. I know who he is from papers and TV, but I had never -- I know from the standpoint that I read the letter. I never dealt with Mr. Crane, never had any contact with him.

Q When did you first learn that Mr. McDougal decided to go beyond your staff level people and raise it to the level of the Governor's office?

A When the Governor called me in '86. I don't have the exact date, but when he called me in '86.

Q The Governor called you directly?

4 5

A Right. That's the reason I remember it. Back then, before '86, I might see the Governor in meetings five, maybe six times, maybe talk with him on the telephone a couple times a year. It wasn't an everyday occurrence that I talked with the Governor.

Every time -- in previous conversations I talked with him, it had always been his secretary to my secretary, me getting on the phone and me waiting. This was -- why I remember, it was the circumstances. As I picked up the telephone, the secretary was busy, I picked up the phone and answered it and this guy started talking to me. I kept thinking I know who this is, I know who this is, but it didn't hit as soon as he said, hello, Tom, I need you to do something for me, I think I have a little bit of a problem. I was trying to think what problem and who. That's one of the reasons why it sticks in my memory.

O What did he say to you?

A Okay. He just said we have a problem, and he said it was with one of my constituents. I am

paraphrasing. Obviously this is '86. He said, I think some of your people are possibly messing over him. At that time I realized it was the Governor talking, or about that time.

The next thing he said was really strange, but my secretary made a comment afterwards about it. He said, would you be willing to meet with me and Mr. McDougal, which struck me as kind of funny, because he is the Governor. He was asking me if I would meet.

So, I said yes, I would be glad to. He said, let me lay all my cards on the table, and he said, the reason I think some of your staff is messing with this development is because this gentleman has been a supporter of mine since I ran for Congress and he has never asked me for anything.

I said, we will be glad to sit down and meet with you. He said, let me get back with him and I will have my secretary call you. That day or the next day, his secretary called and set up a meeting.

Q Who was the secretary at the time?

A His secretary?

- 1 Q If you know.
- 2 A I don't know.
- 3 Q In any event, his secretary called you

4 back?

A Right, and set up a time for me to show up. I don't know if I did it then or when I talked with the Governor the first time, but I told him I wanted to bring the director of the department and also I wanted to bring Jerry Hill. I wasn't going to go meet with the Governor without the director of the agency knowing about it.

Q Now, did you talk to him about it or his secretary when you said you wanted to bring someone?

A That, I don't remember which one. Whoever I talked with, I got clearance to bring them. I got clearance to bring them from him.

Q Was that the extent -- going back to that initial phone call from the Governor, was that the extent of the conversation?

A That was it. It was pretty short and direct. It was just about that blunt. Like I said, there are just a couple things that stick out in my

mind because I remember making a joke that I wasn't going to meet with him or something like that to the Secretary. Also I knew I had had to get Dr. Saltzman involved, that he had been left out of the loop.

Q Do you remember when you received this call? You said early '86.

A It was -- it had to be before Heptachlor.

Q Before what?

A Heptachlor. We had a big problem in early '86 with some bad feed getting into the milk cows all over Arkansas. About seven days a week, 15 hours I was working. It happened prior to that. It had to be somewhere between February and March or somewhere around in that area. I just don't have the exact date.

- 16 Q You eventually met with him on March 4th.
- 17 A Okay. It was before that, then.
- 18 Q How much prior to that?
- 19 A It wasn't more than four days. It was 20 within a week.
- Q Now, after the secretary called back and arranged for the meeting and you arranged to bring

1 Saltzman --

A And Jerry Hill.

Q -- and Jerry Hill there, what happened

next?

A We had a meeting. It was in the afternoon. Like any time you went over to the Governor's office, you went over there and got there on time, but you were prepared to sit for 45 minutes to an hour because he always ran behind schedule.

10 This was no different than other meetings I had.

11 The thing that stuck out in that one is

The thing that stuck out in that one is when we got there, we met McDougal; Dr. Saltzman, myself and Jerry shook his hand. Dr. Saltzman was in the position where he carried on a conversation with him. Dr. Saltzman is an elderly gentleman, and he has never met someone he couldn't talk with. He had either delivered a baby or knew somebody. He started talking and we were out there 45 minutes, and it looked like a piece of cake. We were not in the

19 looked like a piece of cake. We were not in the 20 conversation, Jerry and I, but I told Jerry, this is

21 not going to be as bad as I thought it would be.

Then we were called into the Governor's

1 office. I did not remember who was there. I knew he 2 had an aide there. I knew it was Janice Choate,

3 because she told me a while back it was here. A

4 while ago I told you, I did talk with Janice Choate 5 about this also.

5 about this also.6 O Prior t

Q Prior to testifying here today?

A Yes.

Q You went into the meeting and you had Saltzman and you had Hill. Choate was there,

McDougal was there, the Governor was there.

A Right. We sat around the coffee table and he started off and said, Mr. McDougal or Jim, or whatever he called him, he said, I have Tom, Dr. Saltzman here, I think we have a little bit of a problem, will you lay the problem out, let's see what we can do, maybe we can come to an agreement on how to solve this problem, at which time McDougal went ballistic.

It wasn't "I'm glad for the meeting." He threw a volley. He shocked me; he said, I don't know why I'm meeting with these people, they can't do anything, Lex Dobbins is a pothead and everybody in

1 the county knows it, he has something on Tom and 2 Dr. Saltzman

> "Tom," referring to you? 0

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Right. And Dr. Saltzman, and they can't control him because of what he has on them. That was -- he never followed that up with what the accusation was. It was just sort of like a scatter gunshot.

At that time, the Governor, I was sitting to the right, because he looked over, and I was curious as to whether or not he was believing this crap, but he looked over at me and rolled his eyes, like what's going on.

14 He then -- his tirade lasted about five 15 minutes. That's the gist of what he said. I remember him getting real mad. He wasn't screaming, 16 but he was yelling. The Governor sat there. The 17 thing that brought it to a head was Mr. McDougal did 18 19 not know what Jerry was. He thought he was an engineer. He said, they even brought their engineer 20 here, and that's not fair because I don't have my 21 22 engineer here.

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1 Then he said, you told me the meeting would 2 be between you, me and Tom. That's when the Governor 3 got red. I have been around him enough that I knew when his face got red that things were fixing to hit 4 the fan. He did, he got real red. He said, Jim, or 5 6 Mr. McDougal, whatever he called him, he said, you go 7 out in the foyer, use the telephone, get your engineer or whoever you want and we will wait here 8 until you get him over here. I told you I would set 9 10 the meeting up and I set the meeting up. 11

From that time, McDougal calmed down. I think it was pretty obvious he had said the wrong thing. The meeting then settled down to a normal meeting. It was one of many type meetings I have hand when dealing with land developers, it is more or less who shot Jack when and the land is really good and we have done all these great and wonderful things and so on. It took about 45 minutes.

The end result was I told him we would be willing to go back out and take another look at the property, because we are not beyond making a mistake. That was the agreement at that time, and

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the Governor said, I think we can live with this, and you go back out and look at the property. And the meeting was basically adjourned. There was a shaking of hands and everybody left. The Governor told me to stay for a second, he had something else to talk to me about.

I stayed, and he said, I don't really have anything. He said, I apologize for the way the man acted, I had no idea he would act this way. He said, you go do what you have to do and you will never hear another word for me.

That was my last conversation with the Governor on the matter.

Q Now, do you know in the meeting whether McDougal said that he wanted Dobbins fired?

A Oh, most likely. He was getting off on Dobbins. I couldn't say for sure, but I know at some point either in that meeting or in the next meeting I had with him that he wanted Dobbins gone. That was the whole gist of the meeting, was for me to get rid of Dobbins.

Q He said that Dobbins must go, words to that

effect?

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 A I can't say he did, I can't say he didn't. My recollection is that was the gist, that part of the conversation was to get rid of Dobbins, yes.

Q What was the Governor's response to his request to get rid of Dobbins?

A Nothing. Like I said, he was just ranting. The Governor said very little. He had that little talk when he said, go get your engineer. At the end he said, that sounds fine. We made no promises to get rid of anybody. We said we would come back out and look at the property, and that was it.

Q So, the agreement that was made was that you would go out and look at the property?

A Yes.

Q Was there any decision made at that meeting about what to do with Dobbins?

A No.

Q Was there any decision made when the Governor took you aside as to what to do with Dobbins?

- No, Dobbins's name never came up with me 1 2 and the Governor ever. 3 0 Whether his name came up or the position. 4 No, nothing on Dobbins. Α 5 Sometime shortly thereafter, there was a 0 6 decision made to remove or reassign Dobbins. 7 Yes. That was mine. 8 0 Did you consult with anybody before you 9 made that decision? 10 A Dr. Saltzman and Jerry. 11 0 Jerry Hill? Jerry Hill, yes. I not only removed 12 Α Dobbins, I removed three people from there. I met 13 with those guys. I met with Bill Teer, their 14 15 immediate supervisor. I know there were some unhappy 16 people in the meeting when I met with them. I think Teer was not really satisfied. He knew I was doing 17 it. Dobbins and the other two gentlemen were not 18 really happy. I called them indirectly because I 19 20 wanted them to know it was no reflection on their 21 work or anything else. 22 We had gotten to a point, and I know it is 26
- 1 in there on one of the dates because I know we put a 2 memo together on it. I believe, by that time, it was after I went out and I met with McDougal and his new 3 general manager. It was after that point in time. 4 5 The exact date I don't know. I know that there is a 6 memo also in there where either I refer to it or Teer 7 refers to it, somebody refers to it, where McDougal 8 also makes an accusation against the sanitarian in 9 Searcy County, because I had two people look into 10 that, Nancy Kersh and Jim Mills looked into that accusation on that sanitarian, that he was doing work 11 other than Health Department work on Health 12 13 Department time. We had to review all his time 14 records and everything else.

If you wonder why I removed him, the focus 15 was not on the problem. The focus was on -- we never 16 could get around talking about Maple Creek Farm 17 18 because we were always talking about our employees 19 and who shot Jack when and who did this and who said 20 that, nothing that anybody could ever prove one way or the other. Dobbins was not getting a very good 21 22 reputation from it. There was no evidence to support

McDougal. He never gave us anything. He just kept 1 2 making the accusations.

3 We have done it in the past and we have done it since then. If we get to a point in time 4 5 where we are not dealing with the problem, we rotate sanitarians, we move one to one program and move one 6 back in. Then if they come back and tell us our 7 sanitarian has it out for us, that won't hold water 8 at that point in time, because we have moved another 9 10 one in. Townsend was the other one, and North 11

Pulaski I believe is what he had.

Who made the initial recommendation or 12 13 decision to remove Dobbins?

> Α Me

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15 So you suggested it to Saltzman and to 16 Jerry Hill?

> A Yes.

18 Q And how long after the meeting on March 4th with the Governor did you make that decision? 19

You are really asking me -- I will give you an approximate, because I don't know for sure, but it was somewhere within a month. It was not the next

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week. I was up to my eyebrows in Heptachlor for about six weeks.

There is one letter in there where I apologize to McDougal because he had evidently sent word to me that I hadn't gotten word to him soon enough. It was all you could see over the news, was this pouring milk out all over the state. It wasn't like he didn't know what we were working on.

He was giving me a hard time about not 9 answering his telephone calls. I apologized and said 10 I would get back with him. 11 12

The only other time I met with McDougal was we went out to Maple Creek Farms and it could either have been one meeting or two meetings, okay, but I will have to tell you like it is one meeting because I don't remember whether it was one or two. I remember going -- there is a freeway that runs from Little Rock to Pine Bluff. Maple Creek is on the

19 west side. Across the freeway, on the other side, is 20 a place called Castle Grande. We went over there.

21 He had his offices in a trailer on Castle Grande.

When we went over there, I drove up, I

asked Jerry or whoever was with us, I said, are we 1 2 going to have the same problem here that we have 3 across the street? Because he was starting to develop that and you could see the size of the lots 4 5 and trailers, that it was going to be the same 6 garbage if they didn't have sewer.

7 We met there and all I remember -- I don't 8 remember his name. I just remember he is a stocky fellow and he seemed real honest. He didn't seem 9 10 like a used car salesman, he seemed like an honest 11 person. We talked with him, and the thing I remember -- because when I go out, I am window dressing, I am 12 13 not an expert on soil. I go out as basically window dressing as the deputy director going out to solve 14 15 your problems.

But the people I have with me are the people who are the experts, and I rely on them to tell me either during the meeting, pull me off to the side and say it is a bunch of garbage, or I will not commit, get back with them.

My feelings were that this guy was honest and he had some grand schemes of putting some berms

30 up and he was telling me about the bulldozer work they were going to do to shift the flow of the water

3 around. 4

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When you say he is honest, this wasn't McDougal?

No. McDougal was still blowing and going. He wasn't making any accusations, but it was like we were good friends, and I had only met him one time, but I felt like I was being sold a car, you know. That's why I am out there; he doesn't know that I don't know soil. I am not going to advertise that.

I have 80-something programs. I am not an expert on 12 13 everything.

I am just listening to him. The other guy starts talking and he lays the map out of all the lots and so forth and shows me the contours, how they are going to do this, this and that. Either at that meeting or another meeting they drove me around Maple Creek Farms. They were showing me a bulldozer they had that wasn't moving and they showed me the bulldozer and said they are going to move this dirt

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22 around and do certain things.

When I got back, Jerry and I were riding 1 2 back, Jerry's impression was we might get somewhere 3 because this is the first guy I have talked with that 4 seems to know what he is doing and we might be able 5 to work something out. 6 The guy didn't stay very long. My

recollection is he left within six months. That was it.

In any event, it wasn't until you had visited the property several times --

Twice, at max.

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0 -- that you made the decision to remove Dobbins?

Right. The reason -- again, I have nothing 14 15 to back this up, outside I remember calling the three guys in, Bill Teer, Jerry Hill and probably their 16 supervisors, but I don't recall that for sure. I had 17 18 them come into the central office. I went down to 19 sanitarian services. I remember that.

20 Did you do this before the meeting or after 21 the meeting with Clinton?

It was after the meeting. It had to be

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over a month later.

MR. COLE: That would be the actual reassignment? You made the decision earlier?

3 4 THE WITNESS: No. When I made the 5 decision, it was within a day or two. Once I made the decision, there was no sense in letting this 6 7 thing drag.

BY MR. GICALE:

Q In terms of the meeting, you brought them in and at the meeting --

Yes, I brought them in. I'm going on this 11 12 from the way I operate in general over the last 27 13 years. Once I make a decision, I don't drag it out for three or four or five days, I will call the 14 people in and tell them what I'm going to do. 15 16 In this case, my reason for calling all three of them in was to make them understand that 17

18 they had done nothing wrong, nothing was going to be 19 held against them, no loss of pay, no demotions, no 20 anything but that I could not get to where we wanted

to get, which is get Maple Creek sewered. The other 21

two I don't even know how many lots, but they were 22

small. They were nickel and dime stuff. But he had already -- we were going to be chasing rabbits.

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I was taking two people that wrote one study -- one was a Bureau director and assistant director, that is the second and third in line from director, right underneath me --to do a study where the guy had used his sick and vacation time.

I at that point said I had had enough of this. I told Jerry and Dr. Saltzman, I want them moved. Dr. Saltzman, said go do it. So we did it. I wanted them to know. The one that was the most upset was Townsend, for some reason. He took a personal affront to it.

Why did you remove the other two from the project?

One of them he had made an accusation about his doing work for another company on our time.

Who made the accusation?

McDougal. He had made an accusation A against him. I can't recall whether he made an acquisition against Townsend in any of these meetings or not, but I know that he did against the one in

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Searcy County. I cannot think of his name right now. He is still with us. Tom is his first name.

Tom I know pretty good. Townsend I met two times. Dobbins and I go way back. I know him and have talked to him quite a bit.

It wasn't just the fact that Dobbins had been talking to the other two people?

8 Oh, no, no. They were separate. McDougal 9 was just -- McDougal was doing anything to take the focus off the problem, which was getting the lots 10 that he had signed sewered. He wanted us to give a 11 12 blanket approval to approve more lots, and I checked this out with Brumbelow, because I was concerned 13 since '86 how many lots did we approve. I talked 14 with Brumbelow the other day, and he said there were 15 over -- approximately 200 lots, and from '86 to the 16 17 present, we have approved 20 lots. That's the way we left him. We said we would do it on a case-by-case 18 19 basis.

The new people who took it over from RTC, I 20 have met with them now three times. We are still --21

22 we still don't have the thing sewered. They are

35 1 working on it. They called me six weeks ago, and I did the same thing six weeks ago that I would have 2 3 done in '86, I called down there and said, lot 4 whatever number, what is the story on it. The 5 sanitarian service called the sanitarian that is 6 working the project now and he said, basically, it is 7 no good, we can't put an individual sewage tank on 8 it. 9 So, I called the new owners back and said, 10 we can't approve that lot. And he said, then you are 11 going to stay with that lot-by-lot basis, and I said, 12 ves, until vou get a sewer in, we can't do anything 13 about it. 14 Q Eventually there was a point in time when 15 you issued a memo transferring these three individuals? 16 17 Α Yes. 18 It was because McDougal had complained 19 about the three of them? 20 At least two of them. I don't recall about 21 the third one. 22 It is your recollection that it was your 36 1 decision in consultation with Hill --2 It was my decision. A 3 0 -- and Saltzman? 4 A I just talked with him. 5 You made that decision before you went into 6 the meeting with Dobbins and Townsend? 7 I let them go ahead. I let them do what I 8 let any other employee do, which was give me their best shot and gripe and moan, but I wasn't going to 9 change, and I didn't change. 10 11 MR. GICALE: Off the record. 12 (Discussion off the record.) 13 BY MR. GICALE: 14 Prior to the meeting or the phone call from 15 Mr. Clinton or subsequent to the phone call, did you 16 have conversations -- strike that. 17 Prior to the meeting you had on March 4th with Mr. Clinton, did you have conversations with 18 Carol Rasco and Janice Choate about the status of 19

22 A To tell you that I definitely did, I

McDougal's complaints and documentation supporting

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them?

can't. But I know that I must have, and I would normally have had at least a couple conversations with them.

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Number one, it would have been standard procedure to call them after I went out there, just to tell them that I did go out there and, number two, when I was going to remove these gentlemen, I would also have called them to cover my rear end on the politics on the local level.

In other words, I didn't want -- I have a standard operating procedure. If I am going to do something to an employee out in the county, I make sure everybody who I think might burn me knows about it before the employee goes to them. In this case, if I was going to get burned by any of these guys, it would have been by a representative of the county judge or state Senator calling and saying that I was picking on them. So I let them know that, yes, I made the decision to remove them and that was it.

20 As far as having any conversations with them about this thing, no, nothing. That's what is 21 so strange to me. I have read about Whitewater, 22

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1 which I don't know anything at all about. Maple Creek was a big land development. It is big, from 2 our standpoint in Arkansas. There are a lot of lots 3 out there. I don't know how much money was tied up, 4 but it was a good-sized development. 5 6

I have had my arms twisted before, but I didn't get twisted on this one.

O Directing your attention to February 5th 8 and a memo I will mark for identification as DKR 9 1600617-A. It is dated 2/5. It is to the Governor 10 from Rasco. What it says -- take a moment to look at 11 12 it. Please read it to yourself for a moment.

(Witness examined the document.)

Okav. Α

Q I know this is not your memo --MR. COLE: Let's give him a clean copy. THE WITNESS: I can't make out a couple of the words.

MR. COLE: DKSN 013415, which I believe is 19 a copy of the same memorandum but without a 20 21 "confidential" stamp. 22

THE WITNESS: Okay.

39 1 BY MR. GICALE: 2 Now, this is not your memo; correct? 0 3 I don't know what that is. 4 But there is a reference to you in the 5 memorandum saying that you delivered this "Regarding 6 McDougal issue along with backup materials, which are on my desk. Please review, advise." Do you recall 7 delivering any materials to Carol Rasco to deliver to 8 9 the Governor? 10 No. The only thing that it could be would be the -- I don't know what the date is on this book 11 12 right here. I never figured out when exactly I did this on Brittany Point. But that is the only thing I 13 14 can think of. I don't recall -- I do not recall 15 delivering anything to Rasco. 16 You testified earlier that the Governor 17 called you a short time before you ended up having the meeting on March 4th. 18 19 Α Right. 20 Was that the first you heard from the 0 21 Governor or his staff about this issue? Yes. That was the first time. 22 40 1 If there was this memo from Rasco on 2 2/5/86, would that refresh your recollection and 3 suggest to you that maybe you started talking about 4 this issue earlier or that you got a call from the 5 Governor earlier? 6 No, I did not get a call from the 7 Governor. I can promise you I did not. I only talked with the Governor one time on this issue. 8 9 Like I said, before my meeting with the Governor in '86, I knew we were having problems with 10 11 it. I knew we had a memorandum we were working with 12 him on. We were having a hard time getting him to 13 cooperate. But that's it. 14 I'm going to show you what is marked for 15 identification as another memorandum dated February 16 25th. It is marked DKSN 013417. It is dated 17 February 25th. It is to Rasco from Choate. Again, 18 it references you in the first paragraph. Okay. Go back and give me the date on when 19 20 I met with the Governor.

MR. COLE: The documents we have indicate

22 it was March 4th, 1986.

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THE WITNESS: So this was before my
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    meeting.
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            BY MR. GICALE:
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             Could you just take a moment to review
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    this.
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        Α
             Okav.
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            (Witness examined the document.)
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            Okay. The only thing I can say on this, it
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    would --
             This is not your memorandum, is it?
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        Α
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             It is from Choate to Rasco. Does this
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    refresh your recollection as to any conversation you
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    had with Choate about this situation?
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        A It really doesn't. If Choate said I said
    this, I did. I trust Janice enough. Evidently they
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    were questioning -- because Deer Run was a piece of
    property we were also having problems with.
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        O What was the Deer Run experience?
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             We lost. Dobbins was the sanitarian on
    that one. He was the sanitarian over the whole
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    septic tank program at that time. Deer Run was up in
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    northwest Arkansas, and it was with a land developer
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    out of Texas, a guy named G.G. Gale. If you were
    going to typecast a person in a movie, this would
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    have been the guy back at this time that came in an
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    unbuttoned shirt, chains all over himself, he was
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    going to show the poor boys in Arkansas how to do
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    it.
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            He had some property that was also real
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    marginal. We took him to court to try to get him to
    sewer and do other things, and we got beat. Excuse
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    me. We won in court, and we ended up looking more at
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    the land and we were able to get some lots changed on
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    it.
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             In addition to referencing that Deer Run
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    experience, the second paragraph, first sentence says
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    that "Tom said he met with the four sanitarians
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    listed on the memorandum, Teer, Townsend, Dobbins,
    Jenkins." That memorandum seems to suggest that you
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    met and discussed this issue with them before the
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    meeting with Clinton.
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I could have. I did not, to my recollection -- there was just a short period of time

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1 from the time Governor Clinton called me to the time 2 I met with him. To my recollection, between that 3 period of time, I didn't meet with anybody in the 4 meeting. I definitely guarantee you I got brought up 5 to date on what was going on. But --6 MR. COLE: By your staff, you mean? 7 THE WITNESS: By staff. I didn't go in and meet with the Governor and not be brought up to 8 9 date. I don't remember meeting with these 10 sanitarians, because like I said, the only time I 11 remember meeting them, I guess the reason I remember 12 this meeting, because it wasn't a fun meeting, 13 because I knew some employees left thinking that I 14 wasn't backing them. 15 BY MR. GICALE: 16 The ultimate meeting when you removed them? 17 Α Yes. 18 So it appears then from this Choate to 19 Rasco memo that you may have been talking to Choate and Rasco about this issue. 20 21 It could be. Like I said, we had been working on it, like I said, since the very beginning, 22 '84 through '86. Yes, I had knowledge of it. But 1 2 when it really came to where my memory kicks in was getting that strange call from the Governor, from 3 that time forward. Then it pretty much dries up 4 5 after two or three months 6 I'm going to show you another memorandum. 7 This is identified as DKSN 013404. It is dated March 5, 1986. It is to the Governor from Choate. It is a 8 follow-up to the McDougal-Health Department meeting 9 10 with the Governor. Please take a moment to read that 11 to yourself. 12 (Witness examined the document.) 13 Okay. This sounds, you know --14 This is not your memorandum? 0 15 Α No. it is not. 16 0 It is from Ms. Choate to the Governor dated 17 3/5/86. 18 A I forgot about the measle outbreak. Yes. It has been represented to us the meeting 19 0 with the Governor occurred on March 4, '86. 20 21 Α This was the next day. 22

This memo appears to be the next day. In

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    it, as you can see, Ms. Choate is telling the
    Governor that she talked to you.
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A And that I removed all three of them.

Q The three men Jim McDougal referenced in the meeting were removed from those jobs?

A That's not my recollection. But it says

A That's not my recollection. But it says here obviously that I did. My recollection 10 years ago is that I didn't remove them that soon. I know I did not take Dobbins out with me when I went out and met with McDougal, which had to be within a week, because I would not -- again, this is going back just on how I would normally operate.

I would not sit on something where I told the Governor or even a Senator or representative that I was going to go meet with somebody, that I would let it lay more than a week. I had to go back out there within a week. I did not take Dobbins with

18 me. I am almost positive of that. But I don't 19 remember removing him until sometime later.

MR. COLE: Do you remember when you went back out you took the new sanitarians that had been reassigned?

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THE WITNESS: No. I never took the sanitarians out there. There is only one out of the three that I could even tell you that -- and that is Brumbelow, Terry Brumbelow is the only one. That's because I knew Terry and I have known him a lot since that period of time because we have worked together quite a bit.

I know I possibly could have gone out there

I know I possibly could have gone out there with Brumbelow, but that would have been the only one.

BY MR. GICALE:

12 Q Do you recall whether the meeting with the 13 Governor on the 4th was in the morning or the 14 afternoon?

A It was in the afternoon.

Q Do you recall whether you went out the same

17 day --

A No.

19 Q -- to view Maple Creek Farm?

A No. We did not go out the same day, no.

Q As this memo indicates, Choate claims to have talked to you the following morning a.m.

1 A Yes.

2 Do you recall going out to Maple Creek

3 Farms the very next morning?

No. I did not go out there that day, and 4 5 to my recollection --

That day, you did not go out there the day 6 7 of the meeting?

8 I did not. Α

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9 Q Did you go out there the next morning?

I'm almost positive I didn't. You are

talking 10 years. I know all this happened within a 11

period of four weeks. Everything we are talking 12

about here happened within a period of four weeks. 13

That's the best I can do for 10 years. 14

Q You previously testified that you did not 15 come to a decision to remove these people. 16

17 Mr. Dobbins and Mr. Townsend, until after you had

seen the property at least twice. 18 19

No. Once, maybe twice.

20 0 And after you had consulted with

21 Mr. Saltzman --

22 Dr. Saltzman and Jerry Hill. I guarantee

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1 you, if it was the very next day, I guarantee you two

2 people I talked with is one, Jerry Hill, and the

other one was Dr. Saltzman, because I would have 3

4 wanted Dr. Saltzman, even though I was the

administrator and the way the agency ran at that 5

time, I would run anything past the director on a 6 7

decision like that.

8 While you might have had time to talk to 9 them, clearly you wouldn't have had time to go out to 10 Maple Creek Farms?

I don't think so. It is only about a 11 12 10-minute drive from Little Rock. It was a couple or three days later. Obviously I missed this one from 13

14 about a month.

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Let me show you what is marked DKSN 013281 15 and 282. It is a memorandum dated March 11, 1986 16 17 from Jim Shelby through Bill Teer to you regarding

18 the transfer of files --

> That one I know about. Α

-- files and responsibilities.

21 Α I have already reviewed that.

22 O You received a copy of this document?

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1 Yes.

2 0 The purpose of this document was to do 3 what?

4 To more or less document that we had taken 5 care of this, that everything was done and I guess 6 these are the people who we appointed to take their 7 place.

8 When you say "everything was done," that Mr. Dobbins would be succeeded by Mr. Brumbelow, 9 10

Mr. Townsend would be succeeded by apparently

11 Mr. Accord. Mr. Jenkins would be succeeded by

12 Mr. Farris.

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13 Α Yes.

> This memo, was this produced close in time to the time that the decision was made?

16 A Yes. To me, this, I guess, was what I was 17 going on, because I had this memo. I had this memo.

18 MR. COLE: When you say what you were going 19 on, you mean in your recollection of the timing of 20 the events?

21 THE WITNESS: Right. My recollection was I 22 didn't do it the next day.

BY MR. GICALE:

O Is it your recollection, then, that you informed these individuals, Dobbins, Townsend and Jenkins, that you would be removing them on or about March 11th, the same day that this memo was written?

A Again, you are going on recall. All I can tell you is how I normally operate. I don't think I operated any differently then. If I am going to remove you, I am not going to tell you you are removed and make you sit there and be ineffective for -- that would have been eight days. I would have removed you, had the other people ready to move in so that there was a smooth as possible transition.

So you believe, based on the way you normally operated, that you would have conveyed the reassignment to them and within a few days this memo would have been written?

Yes. To me that is poor management, to put somebody in a position of trying to regulate someone and you have removed them, for whatever the cause.

I am just attempting to reconcile, then, this date of March 11, '86 and perhaps if you told 22

them several days before, which might be March 9th or 1 March 8th, reconcile why Janice Choate might have had 2 the impression that you had removed these three men 3 4 on May 5th, 1986 --

MR. COLE: March 5th.

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THE WITNESS: The best I can tell you, my recollection is that I didn't do it that quickly, but knowing Janice and how thorough she was back then, I could have done it within that period of time. I don't usually move that quickly.

I will lay you odds. I know myself well 11 enough. It was quite obvious that we weren't going 12 to get anywhere with Lex doing the job out of that 13 meeting. We never got focused or anything. So --14 but I still don't think I did it that quickly. 15

BY MR. GICALE:

It would have been very difficult for you 17 0 to have done it that quickly based on what you recall 18 you did prior to coming to that decision, and that is 19 to say you at least went out to look at the property 20 21 once, maybe twice.

Yes. Keep in mind, the only reason I went

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out to look at the property was, number one, to meet the new person he had over to listen to him tell us what they were going to do.

You had agreed to do that?

5 Right, I agreed to do that. I think we agreed to get somebody from the University of 6 Arkansas involved. We were working with -- when we 7 have a problem, we will bring in Maury Rutledge or 8 somebody off his staff at the University of Arkansas 9 10 in Fayetteville.

I think we probably brought them in at some point. Looking at that property would have had nothing to do with my decision on removing the sanitarians. The property would have had nothing to do with it.

The only thing that would have had to do with my making a decision on removing a person was 17 whether or not I thought we had gotten to the point 18 where we could not bring the parties together to 19 focus on the problem, which was not our employees but 20 21 the land. Once I got to that point that I didn't 22 think our employees that we presently had in there,

53 through no fault of their own, could do it, then I 1 2 would remove them, ves. But it would not have turned -- my decision 3 4 would not have turned on the land. 5 In any event, today earlier you testified that --6 7 A I did go out there. 8 You waited at least until you went out 0 9 there --I thought I did. 10 Α 11 -- and you had a chance to consult with Hill and Saltzman. 12 I consulted with Hill and Saltzman when we 13 came back, because that was such a strange meeting. 14 We had just gotten our lunch eaten by this guy and 15 accusations and accusations thrown at Dobbins. We 16 didn't wait until when I went out to Maple Creek 17 Farms with us. Saltzman did not go out there. It 18 was just Jerry. I know Dr. Saltzman did not go. It 19 20 was just Jerry and me. O Is your position now that maybe you did 21 make a decision that quickly, the next morning? 22 54 1 Okay. Α 2 0 Or is it otherwise? My recollection, I will stay with --3 because you are asking me from 10 years, without any 4 paperwork before me -- my recollection of what I told 5 you at the very beginning is the best I have on it. 6 7 That's the best I have. 8 Your recollection is that you probably went out to the property once, maybe twice, and then you 9 had a discussion with Hill and Saltzman and then you 10 decided to have a meeting with Dobbins and Townsend 11 12 and Jenkins. 13 A Yes Quite clearly, that would have taken more 14 0 than the afternoon. 15 A We could have done it. I'm not telling you 16 17 we couldn't have. We could have done it. I think 18 the meeting was 1:30 or so in the afternoon. We 19 could have the next morning gone out to Maple Creek Farm. We are talking a 10-minute drive from the 20

Health Department, 10- or 15-minute drive, max. And

the meeting in the trailer and the drive-through

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1 didn't take any more than two, 2-1/2 hours.

talk to them that afternoon, March 4th, '86, and you went on to the property March 4th or the morning of March 5th. You testified it would not have been your practice if you arrived at a decision to wait from March 5th, '86 to March 11th, '86 or within a few days prior to that to let Dobbins and these other

O Let's assume for the moment that you did

people know that they were going to get transferred?

A No. If I made a decision, at the point in time when I made a decision that we are not getting anywhere on getting this land sewered with the gentleman that we have working on it, then I would have gone ahead and asked Dr. Saltzman, this is what I want to do, do you have any problems, he said no. Whatever it was he said no, he didn't have any

17 problem. Then I talked to Jerry and we set the18 meeting up. I would have told them within a day,

19 yes.

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Q Looking at this memo of March 5, 1986, it appears, based on Choate's recollection of the facts, that a decision was made fairly quickly to remove

1 these people from these positions.

A Yes.

Q It is literally the morning after an afternoon -- a March 4, '86 meeting. So, it seems to suggest some decision was made and some discussions were had prior to the time that she talked to you on March 5th, '86.

Did Choate or Rasco or anybody from the Governor's office suggest to you that you should remove these people?

A No. Like I said, if I talked to Choate and to Rasco and I think I told you that I probably talked with them a couple times because that would have been normally the way I worked, but nothing significant sticks out in my mind of talking with them, because there wasn't anything to it. This was routine. This would have been, hey, I went out there, I did what -- they know I am not an expert on septic tanks. They know if I am going out there, I'm not going to see anything.

I went out there, listened to them, I talked with their people, this is what we think. J

probably called them whenever we made the decision to remove the three of them and said, we are going to remove them. I can promise you Rasco never told me

4 to remove them. Choate never told me and the Governor

5 never told me to remove them. I talked to the

6 Governor one time about it. I could have talked with

7 the other two ladies a maximum of two times.

8 Heptachlor came up after that and I didn't do

9 anything except for flicking milk.

10 MR. COLE: May I ask one question. The questions have been regarding the discrepancy between 11 12 your recollection and Ms. Choate's memorandum. Is it possible it was apparent to you in the meeting in the 13 Governor's office that there was a problem between 14 15 Mr. McDougal and Mr. Dobbins, based on Mr. McDougal's 16 statements, and that therefore he would have to be 17 reassigned and that therefore you could have indicated to Ms. Choate the next day, even though the 18 process took a few days to work through? 19

I realize you don't have a specific
recollection and a lot of what you have testified to
is based on your recollection of how you normally

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handle these situations.

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11 12 THE WITNESS: Also, the best I can piece together from 10 years ago, we are talking about a one-month period out of my life. I didn't deal with Maple Creek Farms any longer than that. We just didn't.

MR. COLE: I don't want the impression left on the record that you haven't given accurate testimony here.

THE WITNESS: I haven't lied to you all at all. I'm not even worried about that. My recollection is exactly what I'm giving you.

There was no doubt in my mind when I left that meeting with the Governor that McDougal and Dobbins working together were going to be slim and zero. He called him everything he could think of. He made wild accusations that he never backed up either in that meeting or in later meetings with me or with anybody. If he made them to the Governor's

20 office, they never let me know, as to what

21 Mr. Dobbins had on me. Dobbins and I in fact have

22 laughed many times over the years, what do you really

1 have on me, that type of thing.

You would have to see this guy. I have been in a lot of meetings where people go crazy, but this guy went just bananas, just like a rocket went off.

6 MR. COLE: That's why I asked the question. You have been testifying about you

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question. You have been testifying about your normal practices. Clearly, this was not a normal meeting.

9 It was a meeting with the Governor and a meeting in 10 which Mr. McDougal acted in a very unusual manner.

THE WITNESS: I can truthfully say after 27-1/2 years with the government, he was the only person that said that I was crooked and that someone had something on me. I couldn't remember a meeting like that.

BY MR. GICALE:

Q Mr. Cole suggested that perhaps you might have indicated that based on the way the meeting went that it might be prudent to remove Dobbins. But I'm going to direct your attention again to the March 5, '86 memo. The second line seems pretty definitive. It says "These three men have been removed from these

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1 jobs." That is not speculation that they might.2 A I guarantee you, she wrote this memo

A I guarantee you, she wrote this memo on the 5th --

Q This is Ms. Choate?

A Yes. She wrote this memo on the 5th. I would have had to call them in. Because I called them in and did it to their face. I can tell you

8 almost the room I met with them in. It was not in my

9 office. I know that. I met on their turf, on their

10 end of the hall. I can see that to this day. I can

11 almost guarantee you it was in the morning. I would 12 like to see the memo that I wrote, because I know

13 part of my recollection was I did not remember what

was said about Tom until I read the memo the other

15 day about the sanitarian from White County. I had

16 forgotten all about having to do a reference check on 17 him.

I don't know if that was before or after.

To be honest with you, I didn't pay any attention

20 when I read it.
21 Q Subsequent to removing the --

MR. COLE: Do you want to look at a

```
1
    document before we continue?
 2
            THE WITNESS: I would like to look at that
 3
    one, out of curiosity.
 4
            MR. COLE: Is that one Mr. Gicale
 5
    previously showed you?
 6
            THE WITNESS: Yes.
 7
            MR. GICALE: Off the record.
 8
            (Discussion off the record.)
9
            BY MR. GICALE:
10
        Q I'm going to show you another document
11
    marked DKSN 013412 through 413. It is dated
12
    3/21/86. It says "Tom B" at the top. If you could
13
    just take a moment to review this.
14
            (Witness examined the document.)
15
        Α
             Okav.
16
            This memo once again is not your own memo.
17
    This is a memo, someone else's memo. This was
18
    Choate's.
19
            MR. COLE: Handwritten notes.
20
            THE WITNESS: Right.
21
            BY MR. GICALE:
22
        O Handwritten notes. In these notes is a
                                                            62
 1
    quote of a conversation -- she appears to be
 2
    referring to a conversation you may have had with
 3
    McDougal.
 4
            (Witness examined the document.)
 5
            I want to direct your attention
 6
    specifically to the quoted part of this.
 7
             "He would fire Lex Dobbins." That was
 8
    probably me out there.
9
        O
             Read the quote.
             "Don't want to get political, but if we had
10
11
    another governor, he would fire Lex Dobbins. This
12
    kind of man can defeat Bill Clinton."
13
            I don't remember this, but I can guarantee
    that is in the McDougal line of just rapid firing on
14
15
    somebody.
16
        0
            You don't remember whether he said this; it
17
    is possible that he did? Is that your testimony?
18
             If he said it, it wasn't in the meeting
19
    with Clinton because of the way it was said here. I
20
    would have remembered that if he challenged the
21
    Governor like that in front of him. If he made this,
22
    the only other time I met with him was out at Maple
```

63 Creek and Castle Grande. But that sounds very 1 2 plausible. 3 That he said that and that you repeated 4 that to Ms. Choate? 5 A Yes. That sounds very plausible that he 6 would say that. She is saying I have another complaint on him from somebody and that this guy made 7 basically the same comment. We were chasing rabbits 8 9 at this time. We were taking a lot of time. O Do you recall whether McDougal said the 10 rest of these things, that Lex Dobbins wasn't going 11 to defeat BC, he didn't spend 60,000 on him since he 12 was 18 to sit back and watch a crazy, psychotic 13 person like Dobbins defeat BC? 14 15 A To tell you I actually remember him saying that, I can't. The psychotic part and hearing you 16 read it back to me, yes. If I were a betting man, he 17 said that, but I can't tell you I definitely 18 19 remember. I will show you what is marked for 20 21 identification --22 MR. GICALE: Off the record. 64 1 (Discussion off the record.) 2 BY MR. GICALE: 3 O Marked for identification as GD 0195, a 4 letter dated March 25th, 1986. 5 A Yes, I remember this one. MR. GICALE: Off the record. 6 7 (Discussion off the record.) 8 BY MR. GICALE: That's a memo or a letter dated March 25, 9 10 1986 from you to McDougal. Yes. 11 Α 12 O That was kind of an update. Was that the letter getting back to him after going out to see the 13 14 property? 15 My best recollection, it is. I will tell A 16 you, the first time I saw this letter was back when I was pulling everything together when the reporter was 17 calling me. I figured the Freedom of Information, 18 people would want it, they would eventually get 19 everything I had, so I went back and got all the 20

I remember looking at this time, it is the

information I had.

- 1 only letter that really bothered me when I first read 2 the first page, because after 10 years you kind of 3 wonder if you did something that you don't remember. 4 I read this and read the part about apologizing for 5 the delay and thought, why am I apologizing to this 6 guy.
 - This was during the milk contamination that I was talking about with Heptachlor. I was going to get back to him. Apparently I hadn't. The word is that I had not. This was right in the middle of this. I fired this thing off and went back to work.
- 12 This was -- this letter was an attempt to 13 update him on the transfer of the file and documents 14 to other people?
- 15 That was basically it. There is nothing to 16 it.
- 17 And then I'm going to show you what is 18 marked for identification as DKRT 800609-A. It is a 19 memorandum dated April 29th, I believe that is '86, 20
- from you to --

8

9

10

11

- 21 Α This is from Jerry Hill.
- 22 -- to Janice Choate. I think you were cc'd

66

- 1 on this memo along with Mr. Saltzman.
- 2 Α Yes.
- 3 0 This was an update Mr. Hill was giving to Janice Choate on Maple Creek Farms. 4
- 5 Yes.

18

- 6 You were made aware of this update as well? 0
- 7 I have a carbon copy of it and I have it in 8 my files, I believe.
- 9 And then finally I'm going to show you what is marked for identification as DKRT 80060. It is a 10 11 memo dated June 26, 1986 from Janice Choate to the Governor regarding Maple Creek Farms. 12

13 Again, this is not your memo, but it does 14 reference a conversation apparently Ms. Choate had 15 with you. Could you just look at this for a moment 16 to see if this refreshes your recollection with 17 respect to your conversation with her.

(Witness examined the document.)

19 I don't recall this. I have something in 20 there from Maury Rutledge. I have a letter that I turned over to you all today from Maury Rutledge. 21

22 Everything you are showing me, even though I don't

recall it, it is exactly what we would do today. 1 Does it at least refresh your recollection 2 that you had subsequent conversations with Choate 3 about the status of your dealings with McDougal and 4 Maple Creek? 5 A I think I talked with him maybe two or 6 7 three times, once or twice, not very much. Like I said, I just didn't. 8 9 Did you receive any further inquiries from the Governor on the status of this project? 10 A No. To my knowledge, I never -- I know I 11 never received another call from the Governor. To my 12 13 knowledge, Janice Choate nor Carol Rasco never -- we were working on it. It would be just like a 14 normal -- I talked with Choate. She was my main 15 contact with the Governor's office at that time. I 16 would talk to Choate an average of twice a day on 17 some matter. I would say during this period of time, 18 Maple Creek didn't come up as, hey, we are doing 19 this, this and this as a matter of updating. I will 20 not tell you we didn't. But I don't recall it. 21 With Rasco, no. I worked with Rasco during 22 that period of time, she was my main contact on 1 2 Heptachlor, but not on Maple Creek. Q Since this time in June of 1986, have you 3 4 had any conversations with the Governor or Choate or 5 Rasco about this incident? A Never with the Governor. Like I told you, 6 7 I talked with Choate this past week. Rasco, no, I 8 have not talked with Rasco directly on this matter. Well, indirectly through a representative 9 of Rasco's or someone else? 10 Yes. I got a call. I was told that a 11 reporter was going to call me. That was Peter Yost. 12 MR. COLE: Associated Press reporter. 13 14 THE WITNESS: Washington Post was how he identified himself when he talked with me. 15 BY MR. GICALE: 16 17 Who told you that a reporter was going to Q 18 call? 19 Rasco got ahold of my son. It was a Saturday. She said, tell your dad that Mr. Yost is 20 going to call you about Maple Creek Farms. When I 21

got in, I asked did she leave a telephone number for

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1
    me to call back and he said no. So, Yost called me a
 2
    week or so later. That was it.
 3
             When would this have been?
 4
             It would be about the time -- again, it
        Α
 5
    would be about the time of the memo from Brumbelow to
 6
    me, which was in the summer, so it would be about a
 7
    year and a half ago, because I'm almost positive I
    had been canoeing that day. I have gone canoeing one
 8
9
    time in the last three years.
             Have you maintained contact with Rasco over
10
11
    the vears?
12
             No. The only other conversation I have had
13
    with Carol Rasco since the Governor was elected
14
    President, I took her out to lunch thanking her
15
    before she left the state. We were just friends. Me
16
    and another person from the Health Department took
17
    her out to lunch. Then she called me on my 50th
    birthday to tell me she hadn't forgotten. That was
18
19
    the last conversation I had with her. I am 52 now.
20
    So, that has been over two years.
21
             So, the conversation a year and a half ago
    actually was not a conversation she had with you, it
22
                                                             70
    was with your son?
 1
 2
             Yes. My son was living at the house at
 3
    that time.
 4
        O Was there anyone else from the White House
 5
    or representative of the President that you have
    talked to with respect to this issue --
 6
 7
             No.
        Α
             -- since 1986 when you were involved with
 8
 9
    it?
       A No.
10
11
            MR. GICALE: Off the record.
12
            (Discussion off the record.)
13
            (Recess.)
14
            BY MR. GICALE:
15
         O Earlier, Mr. Butler, you indicated that
    Mr. Yost did call you. This occurred after your son
16
17
    received a phone call from Carol Rasco indicating
18
     that Mr. Yost would be calling.
19
         Α
             Right.
20
             Did you subsequently -- you did talk to
     Mr. Yost, I believe you testified?
21
22
         Α
             Yes.
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- Did you relate to him that when Clinton first called you, that he said to you that I think some of your employees may be messing with this friend of mine who is in land development? Is that the quote you gave Mr. Yost?
 - Yes. A

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Was that your recollection of what Bill 0 Clinton said to you back in 1986?

That's paraphrasing it, but that is pretty close.

Now, you also said in that article that -in the article published, you are quoted as saying you never got your arm twisted, which is what you testified today; right? That's what you said to Mr. Yost?

15 16

A Right.

Did you also tell Mr. Yost -- this would have been in 1994 -- that Clinton told you, characterized McDougal as a person who "has been a contributor, has been a supporter of mine since I ran for Congress and he has never asked me for anything

22 before"?

> That's almost an exact quote. He said, let me lay my cards on the table. I thought he was being very honest with me.

At any time did you ever feel pressured by Mr. Clinton or any representative of his staff in 1986 to either remove Mr. Dobbins and the other sanitarians or to take a different course of action with respect to Maple Creek Farm?

No, because I have been told to do things before by them. I know when I am being told or not being told, and I was never told to do anything.

MR. GICALE: I have nothing further.

EXAMINATION

BY MR. COLE:

I would like to ask you a few questions about the matters you testified to this afternoon.

Going back to the telephone call from then-Governor Clinton in which he asked you if you would attend a meeting with Mr. McDougal, I believe you testified that either during that call or shortly thereafter in a discussion with the Governor's secretary you indicated that you wanted to bring

1 Dr. Saltzman and Dr. Hill with you to the meeting; is 2 that correct? 3 Α Yes. Mr. Hill 4 O Dr. Saltzman at that time was the director 5 of your department? 6 Yes. A 7 O And Mr. Hill reported to you he was your 8 immediate subordinate in the department? 9 Yes. 10 O Essentially you told either the Governor 11 during that telephone call or told the Governor's 12 secretary for her or him to pass on to the Governor that you wanted to bring other professional staff 13 14 from your department to the meeting? 15 Yes, I did. Α 16 Q There was no objection to your doing so? 17 No. none whatsoever. Α 18 Then when you arrived for the meeting at 19 the Governor's office, I believe you testified that 20 Governor Clinton had one of his staff members 21 present, Ms. Choate, during the meeting; is that 22 correct? 74 1 A 2 So am I correct in understanding that this 3meeting was handled in essentially the normal manner 4 and that staff was present; this wasn't a secret 5 meeting or anything like that with Mr. McDougal? 6 No. This was just a routine meeting. It was a meeting in the Governor's office 7 0 8 but otherwise it was routine? 9 It was a routine meeting with the 10 Governor. 11 There was staff from the Governor's office 12 and staff from your department? 13 Α Yes. 14 Have you had other meetings with developers 15 about their projects and the regulation of those 16 projects, real estate projects? 17 Yes. He could have gotten the same meeting 18 by calling me or by calling the director or calling a 19 local representative or county judge. I would have 20 done the same thing. I would have sat down and met 21 with him. It is silly to say you are infallible and

you didn't make any mistakes and your employees

1 didn't.

1 2

Q Even though Mr. McDougal chose to apparently go through Governor Clinton, with whom he was acquainted, he could have received the same treatment by going directly to you or by going through others in state government?

A Yes. He could have taken his choice.

Q Your testimony is the result would have been the same as far as his treatment?

A Yes. Even all the way to Maury Rutledge and inviting them up on special projects, a lot of times that -- I have utmost confidence in certain sanitarians as far as their knowledge. I told you I think previously when I go into a meeting, I am not the expert. I generally have somebody I have utmost confidence in.

I will look at them, and generally, calling Maury Rutledge in from the University of Arkansas, he just is an outside source that is going to tell me what I basically already have confidence is the fact. So, yes, we do one, two, three, four, basically.

Q In fact, you testified it was your decision to reassign the sanitarians that were involved with the McDougal project.

A Yes.

Q I believe you also testified that immediately after the meeting in the Governor's office on March 4th, Governor Clinton asked you to remain behind for a moment and spoke with you privately; is that correct?

A Yes.

Q And at that time --

A Jerry Hill might have been there. I don't remember. Dr. Saltzman was not, I know, because he went on out with McDougal. He and McDougal struck up their conversation again.

Q So, Mr. McDougal was not present?

A No, he was not present for it.

What did Governor Clinton tell you at that

19 time?

A He said, I want you to stay afterwards because I have something else I want to talk to you about. As soon as McDougal cleared the door, he

- said, Tom, I don't have anything else to talk about, 1
- 2 I just wanted to tell you that I apologize for the
- 3 way he acted, I had no idea he would act this way.
- 4 He said, I have never seen him act this way. So, he
- 5 said, you go do what you have to do and you will not 6 hear another word from me, period.
- 7 So, was it your understanding from that 8 comment that the Governor was telling you to proceed 9 in the normal manner as you felt appropriate and he
- would not interfere or second-guess your actions? 11 Α Do my job. Yes.
- 12 O Is that what you in fact did?
- 13 Α Yes.

10

- 14 0 I guess there still could be a question as 15 to whether, subsequent to that meeting, Mr. McDougal received any special treatment in his Maple Creek or 16 17 other developments.
- I wanted to follow up on something you 18 19 mentioned early in your testimony about 20 lots out 20 of 200. What did you mean by that statement?
- 21 When I started getting calls from Yost and some of the other press who had picked up on it, the 22

- 1 FBI also came by and talked to me. Terry Brumbelow,
- 2 who is over the sewage tank program, this was just
- 3 one of many developments, and when you get to a
- certain point, I don't go back and follow up on our 4
- people and say, what did you do here, give me a 5
- 6 weekly report on this. I knew we were still working
- 7 on Maple Creek Farm, but I didn't know how many we
- 8 had approved.
- 9 So, I thought, it is going to look really
- bad if we have approved a large number. So, I asked 10
- Terry, and he said we have approved approximately 20 11
- 12 and we have turned down another 20. It is almost a 13 50/50 split. We are still having troubles with it.
- 14 We were able to get some of the lots sewered.
- 15 The only other thing I remember, a
- 16 conversation specifically about Maple Creek, which I
- did not relate to you, was there was a local Senator 17
- 18 who his dentist owned a house out there, and every
- time he would go to the dentist's office, I would get 19
- 20 a call from the Senator saying that Dr. X -- I cannot
- 21 remember his name -- has not been connected to the
- 22 sewer.

I remember working on that three years between '86 and '94. We couldn't even get this guy on sewer.

Q So, essentially you were trying to get Mr. McDougal to do what he had indicated he would do in the memorandum of agreement, which was to provide a community sewer system, and he never did so?

A That's correct.

1 2

Q In the interim or up to the present, I believe you testified you were evaluating -- your professional staff was evaluating each lot on a case-by-case basis to decide whether a septic tank or other?

A Right. Even within the last six weeks, the new owner of the property, he is in the process of trying to get a grant to put a sewer system in, resewer or sewer the rest of the lots.

But in the meantime, he is trying to sell lots. He would call me about one, and we turned that one down. It is just business as usual.

Q To the best of your knowledge, then, those lots in the Maple Creek Farms development have been

handled in accordance with the recommendations of your professional staff in terms of whether they would be approved or not approved for septic systems?

A Yes. I mean, 20 lots in almost 10 years, that is hardly two a year. You are not going to make a whole lot of money. This was -- for Arkansas, this was a fairly large development. They just didn't do anything.

Q You have said that several times during your deposition, that we didn't do anything. By that do you mean that you didn't do anything to try to help this development or to help Mr. McDougal or treat this development differently than others that you regulated?

A No. The meetings weren't any different. If you ask anybody on our staff what do I know about a septic tank, I know what I have gleaned from there. I have been out 20, 25 times. I do it probably a couple times a year, maybe sometimes not even a couple times.

Sometimes a representative will say, will you come up here and go over the land with me and

John Q. Citizen, and he understands I don't know anything. I go up there and go tromping through the woods and I nod and have a sanitarian beside me. He has generally prepped me before I go there. I never commit on the spot. I do not commit on the spot.

Q You go in with an open mind, listen to the property owner's position?

A I listen to them. I go in with an open mind understanding that our staff could have made a mistake. But I have already heard from our staff. Sometimes I rule against the staff. A lot of times I rule with our staff. We don't make any money by turning lots down. But sometimes people think we do,

14 I think.

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Q The inspectors that were reassigned to handle Maple Creek Farms after 1986, do you have any reason to believe that during Governor Clinton's administration they gave any special preference or treatment to Mr. McDougal?

A No. In fact, the strange thing about this
was when I referred to a meeting or comment that
Mr. Yost had said. Someone had put an article in the

82

paper after this article Yost came out with that saidthat I had transferred the employees.

3 I vaguely remembered that I transferred

them. Well, Yost called me, and I could tell what he was getting at is that you removed these guys. So he immediately called Lex Dobbins. I talked with Lex, I

6 immediately called Lex Dobbins. I talked with Lex,7 said, it looks strange, Brumbelow has your old job.

8 Lex reminded me, he said, I was the one who

9 recommended Brumbelow and he wasn't the first choice,

10 the job was offered to another gentleman in Faulkner

11 County by Mr. Teer and he turned it down and then

12 Brumbelow got the job. Nobody did anything.

13 Q In a sense, Mr. Dobbins was able to choose 14 his successor; it is not a situation where 15 Mr. McDougal chose the person who was put in to

15 Mr. McDougal chose the person who was put in to16 regulate the project?

17 A Let me make sure you get this straight.
18 Dobbins was at one point over the whole septic tank
19 program.

Q "Chose" may have been the wrong word.

A He recommended that Brumbelow get the supervisor's job or administrator's job for the

septic tank program. This is him telling me. I don't remember it. It is just what he told me happened.

Q In fact, when you testified here today before you had seen any of the documents, you recalled that you didn't make this reassignment decision until sometime perhaps some weeks after the meeting in the Governor's office; is that correct?

A Yes.

4 5

Q And I believe you also testified that you had no contact or recall no contact with Governor Clinton or anyone on his staff between the time of the meeting in the Governor's office and the reassignment; is that correct?

A No. I definitely didn't talk with the Governor, and the only conversation I would have had with -- I am 99 percent sure I did not talk to Rasco about this. If I talked to anybody, it would have been Choate. In talking to Choate, I'm sure I would have called her to let her know I'm fixing to do this, if you get calls from Senator such-and-such and representative, let them know why I am doing it so it

1 doesn't come back on me.

Q You don't have any recollection of the governor or anyone from his office calling you and telling you what to do?

A That I do have a recollection. Nobody from the Governor's office or the Governor ever called me and told me to do anything to Lex Dobbins. I guarantee you they didn't know the names of the other two. The only reason they knew Lex Dobbins's name is because of the accusations made.

MR. COLE: I think we have perhaps exhausted this topic. I am sure you have one or two more questions.

EXAMINATION

BY MR. GICALE:

Q Just to clarify something. At one point in your testimony, you said that you ultimately came to the conclusion that these people should be removed after you went to visit the property and after you consulted with Saltzman and Hill.

A Yes.

Q And then at some later point you said it

1 didn't really matter whether you saw the property or

not: that wasn't a factor in coming to this 2

3 decision. I just want to be clear on why you

ultimately decided to make the decision to remove 4 5

Dobbins

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Α Okay. The reason to remove Dobbins was we weren't getting -- when you go into a meeting and the only thing you talk about is a sanitarian's

9 personality and that the sanitarian -- the reason

10 your land is not being approved is because the

11 sanitarian is out to get you -- that was never clear

why he was out to get him and what he would have made 12

by turning down the property. 13

14 This is not uncommon with a land developer, 15 that they tell us the sanitarian is out to get them. 16

The strange thing that I always have to deal with and

the reason I go in there believing our sanitarians is 17

they can't make any money by turning down lots. 18

There are no percentages in it. 19

So when a guy is throwing this off at you 20 21 and you get to a point when every meeting and every letter and every phone call we are dealing with 22

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personalities, I will remove it. He is not the first one and he wasn't the last one. I have done it before, where without anybody saying -- without even a representative or Senator or county judge being involved, or the Governor.

It is just when it gets to the point that you are coming to meet with me, we are not getting anywhere. So we are going to remove this and then you will have a heck of a time coming back two months from now and telling me the new sanitarian is out to get you. That is just not going to happen.

So, it was your -- you felt that there was 12 13 a personality clash between the two?

There is no doubt, yes. I know Lex. I 14 15 have known Lex for years. He is very, very good at his job, but he is also -- how do you say it. He 16 17 is -- he can get on people's nerves, is the best way 18 I can put it. He is not Mr. Tact at times. To be 19 quite frank with you, a lot of times I don't want him 20 to be Mr. Tactful, but sometimes you have to be, and

21 he wasn't going to be able to work this one out.

Q Of course, Mr. McDougal wasn't exactly

1 Mr. Tactful either.

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A But I don't have any control over those folks. I can't control them liking our person. But I can remove the person they don't like, and that's what I did.

Q Now, you -- one other question. You were appointed as the deputy director in 1979. Who was the Governor then when you were appointed to that position?

A I was hired by Governor Rockefeller, who is a Republican. I went over to the Health Department when Governor Bumpers was there. I got promoted while Bumpers and Pryor were there. My last promotion, Clinton got beat. Republican Governor White came on board and I was promoted to deputy director under White.

O That was 1979?

A It was '79 or '80 when he got elected. MR. COLE: I believe -- I am not the

witness here, but I think the public record shows
 that White defeated Clinton in the 1980 election, the

22 Reagan election.

THE WITNESS: Whenever Clinton got beat.

He was governor for two years. I was a Bureau

3 director. I got promoted when he was governor to

4 Bureau director.5 BY MR.

BY MR. GICALE:

Q When who was governor?

A When Clinton was governor. I was promoted basically under every governor. It had nothing to do with him being governor. I was promoted under each one. My last promotion was when Governor White came on board, because Dr. Saltzman was appointed. I was

11 on board, because Dr. Saltzman was appointed. I was 12 acting administrator, and when he came on board, he

13 asked me to continue on with the job. I worked

14 through the white administration, and all the

15 administrations since them, in my same function.

BY MR. GICALE:

Q One last question.

A Okay.

Q The meeting of March 4th, when you arrived, you said that you waited in a room outside the

21 Governor's office --

A The foyer.

1		59
	Q for 40, 45 minutes, something like	
2	that. Now, McDougal was there waiting with you, or	
3	was he inside?	
4	A He was there. That's why I said it was	
5	such a he and Saltzman there is a post in the	
6	center of the foyer. They were kind of to one side.	
7	We were against the wall. It was like me to you,	
8	Jerry and I carrying on one conversation.	
9	Q I know you testified they did talk.	
10	A The whole time. When we got in there, he	
11	was there.	
12	Q He was already there?	
13	A He was sitting out there waiting, cooling	
14	his heels just like us.	
15	Q There was somebody else in the Governor's	
16	office?	
17	A Yes. That's how he operates. It is one	
18	after another. If you get an afternoon meeting, you	
19	are going to be anywhere from 45 minutes to an hour	
20	and a half.	
21	Q McDougal was in the foyer?	
22	A Yes, when we got in. Saltzman went up to	
		90
1	him. We knew who he was. We had seen pictures, but	
2	we didn't know who he was. Saltzman went up and we	
3	shook hands and Saltzman started talking with him.	
A	•	
4	MR. GICALE: Nothing further.	
5	MR. GICALE: Nothing further. EXAMINATION	
5 6	MR. GICALE: Nothing further. EXAMINATION BY MR. COLE:	
5 6 7	MR. GICALE: Nothing further. EXAMINATION BY MR. COLE: Q There was nothing that you saw either when	
5 6 7 8	MR. GICALE: Nothing further. EXAMINATION BY MR. COLE: Q There was nothing that you saw either when you arrived at the Governor's office or after you	
5 6 7 8 9	MR. GICALE: Nothing further. EXAMINATION BY MR. COLE: Q There was nothing that you saw either when you arrived at the Governor's office or after you went into the Governor's office to indicate that	
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CERTIFICATE OF NOTARY PUBLIC & REPORTER

I, BRENDA M. SMONSKEY, the officer before whom the foregoing deposition was taken, do hereby certify that the witness whose testimony appears in the foregoing deposition was duly sworn; that the testimony of said witness was taken in shorthand and thereafter reduced to typewriting by me or under my direction; that said deposition is a true record of the testimony given by said witness; that I am neither counsel for, related to, nor employed by any of the parties to the action in which this deposition was taken; and, further, that I am not a relative or employee of any attorney or counsel employed by the parties hereto, nor financially or otherwise interested in the outcome of this action.

Brenda Swowshey

Notary Public in and for the

District of Columbia

My Commission Expires

SEPTEMBER 14, 1996



DEPOSITION OF JANICE DEAN CHOATE IN RE: S. RES. 120

TUESDAY, DECEMBER 5, 1995

U.S. Senate,
Committee on Banking, Housing, and Urban Affairs,
Special Committee to Investigate Whitewater
Development Corporation and Related Matters,
Washington, DC.

Deposition of JANICE DEAN CHOATE, called for examination pursuant to notice of deposition, at 12:30 p.m. in Room 534 of the Dirksen Senate Office Building, before BRENDA M. SMONSKEY, a Notary Public within and for the District of Columbia, when were present:

LOUIS J. GICALE, Esq.
Majority Deputy Special Counsel
LANCE COLE, Esq.
Minority Deputy Special Counsel
U.S. Senate
Committee on Banking, Housing, and Urban Affairs
534 Dirksen Building
Washington, DC 20510
On behalf of the Committee.

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it was the spring, like April maybe of '85. Then I

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went and did the governor's partnership with the 1 alcohol and drug office in like September of '87, I 2 3 think. I have just been with state government 10 4 years this past April. 5 MR. COLE: During the period 'April '85 through 'September '87, you were with the governor's 6 7 office? THE WITNESS: Right, I was his liaison with 8 9 those agencies. 10 MR. COLE: Thank you. Excuse me, Mr. Gicale. 11 12 BY MR. GICALE: You commenced your state service in April 13 14 of '85? 15 Yes. I think it was April '85. Α What did you do prior to going to work with 16 0 the governor's office? 17 I worked with a nonprofit agency, Arkansas 18 19 Advocates for Children and Family Services. 20 O In what capacity? 21 I worked with membership and fundraising, Α assorted duties. 22 How long did you work there? 1 2 Α I can't remember. It was probably three 3 years or so. So, that would have been --4 0 5 It wasn't just prior to going to work in the governor's office. I just don't remember the 6 vears on that. I didn't even think to look it up. 7 Because I don't remember if I was even working full 8 time right before I went to work for Governor 9 Clinton. I think the year prior to that I was the 10 interim director of the child development center at 11 my church, which is a downtown Methodist church. 12 A year prior to working in the governor's 13 office? 14 15 Yes. Probably '83, '84, end of '83 through the end of '84 I think I was the interim director of 16 the child development center at First Methodist 17 downtown. Prior to that I worked at Arkansas 18 19 Advocates. 20 Arkansas Advocates? 0 21 For Children and Families. It was a 22 nonprofit agency.

7 1 Q When did you work there? 2 Α Well --3 It was prior to '83? 0 4 I think I was there about three years. A 5 So approximately '80 to '83? O Yes, probably. I didn't think to look any 6 7 of this up. 8 Prior to that? 0 9 I don't remember. I worked as a preschool teacher at Westover Hills Presbyterian Church. I 10 11 don't know what years that was. My youngest son was three, and he is 27 now. So I worked there about 12 13 three years. After that I worked --From '77 to '80 you worked at that 14 preschool? 15 16 Yes, I guess. I am just having to 17 speculate on the years. I just don't remember. I 18 didn't have a full-time job off and on during a 19 couple of years in this long range of years you are talking about. That was at the Presbyterian church 20 preschool program. 21 22 What is your educational background? I have -- I didn't complete college. I 1 2 graduated from high school in '58 and went to Hendricks College the next two years and then got 3 married. My husband was at Duke Law School. I took 4 5 courses there. I took courses in Colorado and Rhode 6 Island. I probably have about 3-1/2 years' worth of 7 college credits, but no degree. 8 Your husband is a lawyer? Q 9 Α Yes. He is a lawyer. 10 Practicing in Little Rock? 0 11 Not anymore. He works for a university. A٠ 12 University of? Q 13 He works for Henderson University. Α 14 Where is that located? O 15 Α It is in Arkadelphia. Ms. Choate, this deposition is being 16 17 conducted pursuant to Senate Resolution 120. The 18 resolution establishes a Special Committee 19 administered by the Banking Committee to conduct an investigation involving Whitewater Development 20 21 Corporation, Madison Guaranty Savings & Loan

Association, Capital Management Services, Inc., the

Arkansas Development Finance Authority and other related matters.

Section 1(b)(3)(A) and (B) of Senate Resolution 120 authorizes investigation and public 4 hearings into, A, the operation, solvency and regulation of Madison Guaranty Savings & Loan Association and any subsidiary, affiliate or any other entity owned or controlled by Madison Guaranty Savings & Loan Association: B. the activities. investments and tax liability of Whitewater

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11 Development Corporation and as related to Whitewater

12 Development Corporation, of its officers, directors

13 and shareholders. This will be the focus of today's

14 deposition.

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You were requested to testify, I believe. last week. This deposition is being taken in advance of a public hearing which will probably occur in early 1996. It is possible you could testify at such a hearing.

20 We will be asking you a series of 21 questions. You are testifying, obviously, under oath. If you don't understand any questions, please 22

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1 let us know and we will rephrase the question. The stenographer will be preparing a record of questions 2 3 and answers. The deposition is to be treated as 4 committee confidential until the commencement of the 5 hearings. 6 Prior to the hearings, you will receive a

letter from the committee telling you you may come to the Senate to review a transcript of your deposition 9 and make note of any corrections in transcription on 10 an errata sheet. If you are called to testify at a 11 public hearing you will be permitted to have a copy 12 of your deposition transcript four days in advance of your testimony. You may be represented by counsel. 13 14 I note you are not represented by counsel today. 15 Counsel may object on grounds of privilege and relevance. The committee chairman may rule on 16 17 questions where a witness refuses to answer a

question. Going back to the issue of reviewing your transcript and making that available at the committee, since you are out of town, we can attempt to make some arrangements for you to review it out of

town so you don't have to come here to look at it. 1 Do you have any questions at this point? 2 3 No. Ms. Choate, your title, exact title between 4 0 April '85 and September of '87 in the governor's 5 office was what? 6 7 Governor's liaison to the health and human service agencies. So, I was just his --8 What were your duties --9 0 A I was his link to those agencies. 10 Which agencies? 11 0 The health department and 13 human service 12 agencies: Aging, alcohol and drug abuse, rehab, DDS, 13 developmental disabilities, children and family 14 15 services. As this link to those agencies, what did 16 0 your duties involve? 17 I had to cover all kinds of board and 18 committee meetings that were related to any of those 19 agencies for the governor and keep him posted on what 20 was going on. And if there were any problems that 21 arose in any of those agencies, I was the person who 22 12 alerted him. And we oftentimes had to set up meetings with people to meet with the governor about issues of import, important things and substance. I 3 did a lot of letter writing for him. I did a lot of 4 speech making for him. I did a lot of -- I covered a 5 lot of different legislative committees for him to 6 keep him up to speed if they were related in any way 7 8 to Health and Human Services. 9 MR. COLE: Did you handle constituent 10 complaints? THE WITNESS: Yes. I did. I got a lot of 11 12 those. 13 BY MR. GICALE: O Did you -- you were, I take it, one of a 14 number of people in the governor's office who acted 15 as the liaison to the various agencies? 16 17 Right, to certain agencies. 18 Did there come a point in time in either '85 or '86 when as a part of your duties you became 19 aware of a complaint or complaints from James 20 McDougal regarding the health department and Maple 21

Creek Farm?

A Yes.

Q When was it you first became aware of complaints by Mr. McDougal?

A I don't know the time or date. I know that we met sometime in '86 with the governor. I have no memorandums to look on to see what exact date it was. When the complaint came -- and I don't know to whom the complaint came, because I don't think it came to me -- we had to set up a meeting with the governor and with McDougal and health department people, because he was very upset and aggravated. He felt that the whole department was jerking him around.

MR. COLE: Ms. Choate, if Mr. Gicale will permit me to interrupt, I notice you indicated you have not reviewed any memoranda or documents to prepare. We do have a number of such memoranda. I think the appropriate thing to do would be to show them to you to refresh your recollection.

THE WITNESS: We always sent a memo in to the governor to be saying you are going to be meeting -- he knew ahead of time because his

scheduling person alerted him to that. I know he had a memo from me or Carol Rasco at the time of this upcoming meeting saying this is the issue and on and on, but I haven't seen any of that.

BY MR. GICALE:

Q I understand. I will be showing you some memos but I would also like to test your independent recollection of the events before we get to the memos.

A Okay.

Q Do you know who it was that alerted you to the fact that McDougal had problems with the health department?

A No. I don't remember who alerted me to that. He may have alerted my to that. I may have had a call from him. I just don't remember that.

Q Did you know McDougal prior to this incident?

A Only superficially, just because he was a supporter of the governor's and he had the Maple Creek Farms place and his wife was on television a lot talking about it. So, his name was in the paper

15 1 or mentioned on television from time to time. But no, I didn't know him personally. I had very little 2 3 to do with him. Until this incident? 4 0 5 Yes, until this incident. Q Now, Mr. Cole indicated to you that we 6 would be showing you some documents here today. You 7 also indicated you did not have any documents. 8 Did you search for any documents at the 9 health department in preparation for your deposition 10 11 today? No. They wouldn't have been in the health 12 department anyway. They would have been in a box in 13 the bowels of the state capitol. 14 15 MR. COLE: You are referring to records from the governor's office? 16 THE WITNESS: Right. The health department 17 18 has records also. 19 BY MR. GICALE: Along those lines, did you speak to anyone 20 about your testimony here today prior to coming? 21 I talked with Tom Butler. I can't remember 22 16 what day it was. I had a trauma in my life last week 1 2 and it was a terribly disruptive week. I don't remember what day I talked to him. 3 But it was last week? 4 5 Α Yes 6 And --7 He called to alert me that the press might call me. He said the press may call you and grill 8 you about something. I said fine. I said are you 9 going to Washington. He said he was going to be in 10 Washington on Wednesday. I knew Tom doesn't fly. He 11 was going to take a week off. We did not discuss 12 13 this. He didn't ask me any questions and I didn't ask him any questions, and I haven't seen the 14 documents that the health department has. 15 The extent of your conversation with 16 17 Mr. Butler was that you might be getting a call from 18 the press? 19 That I might be getting a call from the

press. He already had gotten wind that some of us

my director that I might be called to go up to

might have to go up to Washington. I was alerted by

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1 Washington. 2 MR. COLE: In light of that, Ms. Choate 3 would be giving her best recollection of events about 10 years ago without seeing any documents. 4 5 THE WITNESS: Right. 6 BY MR. GICALE: 7 Did you talk to anyone else about your 8 testimony? 9 Α Just my husband. 10 0 Anyone else? Yes, some people in the office. 11 A Did you talk to them about what you would 12 0 13 be testifying to? 14 No. I said it has to do with McDougal and Maple Creek Farms. This was sort of a superficial 15 kind of comment. 16 17 You don't know who first alerted you to the 18 problem, but it could have been McDougal? He could have called me personally. If you 19 call the governor's office and you can't talk 20 directly to him about an issue that is pressing and 21 has to do with health and human services, you got 22 me. I may well have talked to him, but I just don't 1 2 recall that. Do you remember, whether it was McDougal or 3 someone else, what the nature of his complaint was? 4 5 Well, if I talked with McDougal, then I 6 would have known the nature of his complaint at that point. If it wasn't McDougal, then somebody else was 7 telling me the nature of his complaint. It might 8 have been Betsy Wright or Carol Rasco. I don't 9 10 recall. 11 Do you recall what the nature of his 12 complaint was? 13 He felt like he was not being given a fair shake by the sanitarians who had come out to look at 14 15 his Maple Creek Farm acreage. It had something to do with soil percolation and he wanted a meeting with 16 17 the governor. 18 MR. COLE: Are you able to distinguish, 19 Ms. Choate, to date between what you learned during the course of the meeting and perhaps thereafter and 20 21 what you knew initially, which I believe was the

focus of Mr. Gicale's question, that is, the initial

		19
1	question from Mr. McDougal or perhaps his	
2	representatives?	
3	THE WITNESS: Wait a minute. What?	
4	MR. COLE: It is important to try as best	
5	you can and I realize this is difficult when	
6	Mr. Gicale asked you what you recall about the	
7	initial contact on this matter to distinguish what	
8	you learned at that time and what you learned	
9	subsequently	
0	THE WITNESS: What I learned in the	
1	meeting?	
12	MR. COLE: Right. I'm cautioning you that	
13	you are doing this from memory. Listen to his	
14	questions and respond.	
15	THE WITNESS: I learned more, obviously,	
16	when I got into the governor's office, because	
17	Mr. McDougal had a lot to say that day. He was	
18	upset, aggravated.	
19	BY MR. GICALE:	
20	Q Do you recall what you did in preparation	
21	for that meeting or who you talked to?	
22	A Yes. I am sure the procedure, again, was	
		20
1	to call over and I probably talked with either I'm	
2	sure I talked with Tom Butler and then probably the	
3	head sanitarian, and I can't remember if it was Bill	
4	Teer at the time or not. Bill is head of the	
5	sanitarians now. Bill may have been in the meeting	
6	that day. I know that Tom Butler was, and I think	
7	Dr. Saltzman was in that meeting as well. He was the	
8	director of the health department at the time.	
9	Q What about an individual by the name of	
10	Hill?	
11	A Jerry Hill may have been there, yes, he may	
12	have.	
13	Q Do you recall whether you talked to him	
14	before the meeting?	
15	A I may have. I honestly don't remember.	
16	I'm sure I probably talked to Tom Butler. Whether I	
17	talked to Jerry and/or Bill Teer I just don't	
18	recall.	
19	Q Do you recall what he told you about the	

things, just that we were going to -- he had been

summoned to come to the governor's office to talk 1 2 about this Maple Creek Farm situation.

Who had been summoned to come to the governor's office?

Tom Butler and some of the other people at the health department had been summoned to come.

Would you have arranged for these people to come to this meeting or would someone else have done that?

I might have done it and/or somebody else Α could have done it. I often did arrange meetings. I often would call people and tell them the governor is expecting to see you on this certain day at this certain time about this certain situation.

You would have to discuss it with the governor's office?

Yes. Oftentimes Betsy Wright was involved with that since she was his chief of staff. Whether 18 she was involved in this. I don't recall. She had 19 her hand on the pulse of everything that was going on 20 in that office.

O If you had a complaint that you thought

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merited some attention --1

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I probably would talk to Carol Rasco first.

What was her position? O

When I became the liaison, she had to do with governmental affairs. I can't remember her exact title. She really sort of was over me and some other people who were liaisons at that point. We did report to her. Oftentimes we would go with Carol to meet with Betsy. It depended on how much of a red flag it was.

You initially would discuss it with Rasco? 0

13 Yes. Α

> 0 And/or Betsy Wright?

Α Right.

And then determine whether or not the governor should meet with these people?

> Right. Α

Would you talk to the governor yourself about whether you should meet with these people?

Sometimes. Sometimes I would say it was a 21 good idea and sometimes it wasn't. He would want my 22

opinion and their opinion about these issues.

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Q Do you recall in this instance whether or not you met with Rasco and Wright about having a meeting with McDougal?

A I probably did meet with Carol Rasco. I don't know about Betsy Wright. I don't think I talked with the governor ahead of time at all. I'm sure Carol or Betsy did. Carol may have done the memo in to the governor. I may not have done the memo in to the governor.

Q Do you recall whether or not Carol Rasco or Betsy Wright indicated they had talked to the governor about setting up this meeting?

A Yes. Somebody said we are going to have a meeting. I don't remember if it was Carol or Betsy, but they said we are having a meeting on this.

Q To prepare for the meeting? They told you to prepare for it?

A I evidently at that point probably called
Tom Butler and said what's going on, give me some
background and told them what time we were supposed
to meet and I may have asked for some information to

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1 be sent ahead of time. We oftentimes did that.

2 Sometimes we just said bring your documents and

3 whatever you need with you, make sure we have -- be

4 prepared to give us copies. It has been so long

5 ago. I met on so many issues it is hard to know 6 exactly who and what.

Q You believe you did meet with Butler?

A I'm sure I talked with him on the phone. He was at the meeting, Tom Butler was at the meeting with the governor.

Q At some point in time you remember attending this meeting?

A Yes. McDougal was there.

Q Who else do you recall being there?

A I think Dr. Saltzman was there. Jerry Hill may have been there. I don't remember. Or Bill Teer may have been there. I don't remember.

O Was Butler there?

A Yes, Tom Butler was there.

Q Was anyone else there?

A The governor, me. I don't remember anyone

22 else on the staff besides us.

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O What about Betsy Wright or Carol Rasco?
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            I don't believe either one of them were
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        Α
3
    there.
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            MR. COLE: Did anyone come with
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    Mr. McDougal or was he there alone?
            THE WITNESS: I think he was there by
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7
    himself, as best I remember.
           BY MR. GICALE:
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            What do you recall being said by
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    Mr. McDougal?
        A He was hacked off by some sort of
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    treatment. He alleged there was some sort of bad
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    treatment to him about his Maple Creek Farms acreage
13
14
    and it had to do with these sanitarians, and he got
    really aggravated and made some accusations. I don't
15
    remember what they were. But he was agitated, like I
16
    said. The governor, as I recall, was embarrassed by
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    the way he talked -- and he talked sort of down to
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19
    me.
             He, you are referring to McDougal?
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             Yes, McDougal. He was agitated. So he was
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    sort of fired up. We all represented something to
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                                                            26
    him, I guess, that was disconcerting, because I was
 1
    this liaison who was the go-between between the
 2
    governor. Some people are funny about how they don't
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    like to have to go through any kind of a go-between.
 4
    They want to go directly to the person in charge or
 5
 6
    the king or whoever.
 7
        O McDougal was like that?
        A He was kind of like that, yes. He was kind
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 9
     of a jerk. That's just my opinion.
        O He didn't like the idea of having to deal
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    with you or Butler or anyone else?
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             We were just peons. That was his
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     attitude. The governor got very angry with him. He
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     was very embarrassed that he talked that way to us
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     that day in his office. I do remember that, because
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     when Bill Clinton gets angry, you remember it; it
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17
     doesn't happen very often.
             What did he tell him?
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         0
             That he was out of line to talk that way,
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     that these people had probably given him the benefit
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     of the doubt and that I had probably been nothing but
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     courteous to him and he needed to do whatever we were
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asking him to do. There were certain regulations and they were saying if he needed to abide by those, then he needed to abide by them. That was the gist of it. I'm just giving you my slant on it and my bias.

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Q Did Mr. McDougal request that the sanitarian on the job site, Mr. Dobbins, be removed in the meeting?

A I don't remember. I just know he wasn't happy. I didn't know it was Dobbins. But yes, he was unhappy with the sanitarian. That's why we were there to begin with. He just didn't think he had done him right. I don't know. He was very strange acting about it all, like there was some plot against him, you know -- I think the bottom line was he didn't want to do all he needed to do to make sure everything met regulations. There was some problem with the soil out there, that I recall.

Q Do you recall the other people in the meeting, Butler and Saltzman and Hill, attempting to explain their position to McDougal and the governor?

A Yes. They laid it all out very clearly. I'm sure they had things with them they brought about

why you have to do certain things. Those issues are not ones that I got deeply involved in because you rely on the person who is the expert to give you information, and that's what they came to do.

Q Do you recall anything else that was said at the meeting?

A No. I just remember that McDougal acted like a horse's rear end and the governor was embarrassed and got angry and told him he had to do what he was supposed to do as far as that piece of land was concerned. He said the health department will work with you, and I think there was a follow-up at some point from Tom to me, whether written -- I'm sure it was written and verbal, that they were pursuing this issue, working on it and getting things resolved, because you tried always to have closure on any kind of a situation like this or meeting like this.

Q What was the conclusion of that meeting?

A As best I can recall, that McDougal needed to work with the sanitarians and comply to whatever they were asking him to comply to.

Was there any discussion about removing the 1 2 sanitarian that was on the job? 3 I don't recall that. There may have been. 4 McDougal was aggravated and he said a lot of things, 5 and he was being kind of rash, as I recall, the best 6 of my ability. 7 Do you know whether anybody from the health department, Butler or Saltzman or Hill, agreed that 8 9 the sanitarian would be removed --10 I don't remember that. 11 -- in the meeting? O 12 I don't remember that. They may have said that. I didn't remember it was Dobbins. 13 14 Do you recall whether or not the governor 15 told McDougal that the sanitarian should be removed? I don't remember that, no. 16 17 I take it you don't remember whether or not 18 a decision was made with respect to the sanitarian at 19 that meeting? 20 I really don't. I don't know if they Α 21 removed that particular sanitarian. 22 MR. COLE: To be clear, do you recall any 30 1 discussion at the meeting one way or the other about 2 removal of the sanitarian? 3 THE WITNESS: I don't. I don't know 4 whether that was discussed or not. I really don't 5 remember. 6 BY MR. GICALE: 7 Did you eventually learn that the 8 sanitarian was removed from the project? 9 I don't recall that he was, but he may have 10 been. I don't remember. 11 After your meeting, do you have any 12 recollection of any other contact you had with 13 McDougal and the project and these people? I never had any more contact with him. I 14 15 didn't personally have any more contact with him. I 16 remember there was a follow-up at some point by the health department to let us know that they were 17 18 working on the problem and that it would get 19 resolved. 20 I'm going to show you what is marked for

identification as item DKRT 80062 OA. It is a

memorandum dated January 30, 1986 to the governor

21

```
31
 1
    from, I believe this is you.
 2
             Yes, J. Choate. That's me. Yes, that's
 3
    me.
 4
        0
             The subject is McDougal. Can you take a
    moment to review that and see whether or not that is
 5
 6
    a copy of your memorandum of that date and whether or
 7
    not it refreshes your recollection as to what you
 8
    knew.
9
             CR is Carol Rasco.
        Α
10
        Q
             You can read it to yourself.
11
        Α
12
            (Witness examined the document.)
13
            That's from me to the governor.
14
             Does this now refresh your recollection as
15
    to what you knew about McDougal's complaints and
16
    when?
17
             Well, yes. I am reading that he had lots
18
    of complaints.
19
             Did he ask you to look in the governor's
20
    jacket pocket for a memo that he had given the
21
    governor on his complaints?
22
             He evidently said I could find something in
                                                              32
 1
    the coat pocket of the jacket he had on when he saw
2
    him.
3
             At the end of the first paragraph, it says
        0
4
    that you attempted to call McDougal back on Tuesday
5
    of this week; correct?
6
             Yes, spoke to his secretary, yes.
7
             And said that -- the secretary said that
 8
    he, McDougal, had spoken to you and that -- the "he"
9
    she is referring to is he, McDougal, had spoken to
10
    the governor?
11
        A
             That very day, yes.
12
        0
             And she felt like the issue was resolved?
13
             Yes, but it wasn't, evidently, because we
14
    went on and had a meeting. Then I did speak to Jerry
15
    Hill. See, I didn't remember that Jerry was the
16
    person there. They had gotten a lot of letters from
    him. That all makes sense. Then I'm asking what we
17
18
     needed to do.
19
             What changed after the 30th?
20
            Off the record.
21
            (Discussion off the record.)
```

BY MR. GICALE:

After you spoke with McDougal's secretary 2 on Tuesday that week and you thought the issue was 3 resolved, what changed or how was it brought to your attention that the issue was not resolved, that you 4 5 recall? 6 I don't remember. I don't remember. Α 7 Somebody got back in touch with me. It may have been 8 Carol Rasco, because we did set up a meeting. I'm going to show you what is marked for 9 identification as an exhibit numbered DKRT 1600617 10 A. It is a memorandum to the governor dated 2/5 from 11 12 Rasco. 13 Α Right. If you could just take a moment to look at 14 0 15 that memorandum. 16 All right. 17 (Witness examined the document.) Okay. I'm ready. 18 O Does this memorandum -- I know it is not 19 your own -- refresh your recollection as to whether 20 or not Tom Butler had delivered some McDougal 21 documents to the governor's office in early February? 22 34 1 I don't have any idea. No, I don't 2 remember. 3 I'm going to show you what is marked for identification as DKSN 013416, a memorandum dated 4 5 2/25. It is from Rasco to Choate. Take a moment to review this and see if that refreshes your 6 7 recollection. 8 Like I said to you earlier, I remember that Tom Butler, Saltzman and I thought maybe Bill Teer --9 I didn't remember Jerry Hill -- were in the meeting. 10 What was the purpose of this memorandum? 11 For the McDougal meeting. She was alerting 12 me these were the people who were definitely coming 13 over from the health department with Tom Butler for 14 the meeting with the governor. 15 Would it suggest to you that was Rasco who 16 set up the meeting since she was telling you who 17 18 would be at the meeting? This is my writing at the bottom. 19 Α Where it says "Bill Teer, Saltzman"? 20 O

Yes. That's all my writing.

When you say "this is my writing," where it

21

22

Α

Q

says "for McDougal meeting"? 1 2 That's Rasco's writing. The names and this 3 March 4, Tuesday, 2:00 p.m. with governor," that's my 4 writing. Maybe something was attached to this. 5 MR. COLE: I think, in fact, the documents 6 that have been provided to us, the next two documents 7 in sequential order -- the next one document, if you 8 want to show it. 9 BY MR. GICALE: 10 I'm going to. 11 I probably wrote down these are the people who are going to meet with the governor. That makes 12 13 sense to me anyway. 14 I'm going to show you what is marked for identification as document DKRT 800619A. This is a 15 16 memorandum dated February 25 from you regarding Jim 17 McDougal, although I cannot read --18 MR. COLE: Here is a copy from a different 19 source that is not stamped. Why don't we use this. MR. GICALE: Let's try another copy. 20 21 MR. COLE: For the record, what I'm giving 22 you, Ms. Choate, is what appears to be a routing slip 36 1 you were referring to with your handwriting and DKSN 2 013416. The next document in the documents produced 3 to the committee, DKSN 013417 is a February 25 4 memorandum that appears to be from you to Ms. Rasco 5 "subject: Health department and Jim McDougal." At 6 least from the ordering of the documents in the 7 production to the committee, it appears those may 8 have come together. 9 Right. 10 (Witness examined the document.) 11 Okay. 12 After reviewing this memorandum, does this 13 refresh your recollection as to what you told 14 Ms. Rasco on February 25th? 15 Well, it helps me to remember that these 16 kinds of things were brought up. I had forgotten 17 about Dobbins. 18 MR. GICALE: Off the record. 19 (Pause.)

BY MR. GICALE: You have had a few moments to review the memo of February 25th. Does this refresh your

20

21

37 1 recollection as to what you knew about the McDougal 2 complaints in early February prior to the meeting with the governor? 3 Yes. I mean, it does just by reading it, 4 5 ves. 6 You knew then that Butler was trying to get 0 7 a handle on the McDougal -- it says "the McDougal memo dated January." Do you see that? 8 9 Right. 10 0 It is in the first paragraph. 11 Α Right. I see that. 12 MR. GICALE: Off the record for a second. 13 (Discussion off the record.) 14 BY MR. GICALE: 15 I'm going to show you what is marked for 16 identification as DKSN 013414, a memorandum dated 17 January 17, 1986 from Jim McDougal. 18 Is this the memorandum you were referring 19 to in your memorandum of February 25th? MR. COLE: I would note for the record, as 20 21 I read her memorandum, it is not clear to me that she 22 ever saw that memorandum. 38 1 THE WITNESS: I don't know. I don't 2 remember ever seeing it, but I may have. 3 MR. COLE: In particular, the memorandum that Ms. Choate reviewed earlier, the January 30, 4 1986 memorandum regarding a memo in the coat pocket, 5 it was clear at least at the time she wrote that 6 7 memorandum based on the content that Ms. Choate had 8 not seen the McDougal memorandum. 9 THE WITNESS: I hadn't seen it. If this is what he gave the governor, I hadn't seen it. 10 11 MR. COLE: I have no reason to believe it 12 is not. 13 (Witness examined the document.) 14 BY MR. GICALE: 15 O You don't recall whether or not you saw a memo that McDougal had given to the governor? 16 No. I think I was being sarcastic about 17 getting it out of his coat pocket. I just don't 18 19 remember. 20 At one point in time in your memo, the last

paragraph of this February 25th memo, you said you

planned to meet with Jerry Hill and others and "put

21

their feet to the fire and insist they level with you" --

A "With me."

2 3

4 5

1 2

Q Were you concerned at all that Hill --MR. COLE: This is a memorandum to

Ms. Rasco, for the record.

THE WITNESS: Carol Rasco, correct. We wanted to cover all our bases and make sure they had done what they were supposed to do and weren't jerking anybody around. They were nice people to work with. The health department people were very nice people to work with. I just had problems with McDougal.

BY MR. GICALE:

Q Did you deal with -- it refers to a retired Army colonel who bought some land at Maple Creek.

Did you deal with this Army colonel?

A I may have. I just don't remember. I may have. "Has been upset." I don't know if I am just relating that. That could have been related to me by the health department, or maybe I spoke with the gentleman. I don't know. "This stems from the

problems outlined in the memo sent over by the health department."

Q I'm now going to show you a memorandum identified as DKSN 013421 dated March 4, 1986. It is to the governor from yourself regarding "subject: Jim McDougal, health department."

A This is March?

Q March 4, 1986. You earlier testified that the meeting was set, I believe, for March 4th. That was on your note which is on document DKSN 013416?

A That's what I have written down.

Q I'm going to show you a memorandum that you wrote that has your name on it dated March 4, 1986.

Please take a moment to review that.

(Witness examined the document.)

Okay.

Q Do you know, after looking at this memorandum dated March 4, '86, whether this memo was prepared before or after the meeting you had with McDougal and the governor?

A I don't have any idea whether it was before or after. Probably after, but I don't know. I just

don't remember. 1 2 Do you recall ---0 3 It makes me recall a lot of stuff about 4 McDougal that I didn't like. You forget a lot of 5 things in 10 years, but he was a difficult person to 6 deal with. 7 Do you recall McDougal referring to Teer, 0 8 Brumlow and Kirsch as incompetent bureaucrats, SOBs? Yes. That's why I don't recall caring for 9 10 him. 11 Do you recall him saying a memorandum he 12 had signed with the department was worthless? 13 I don't remember exactly what he said. 14 MR. COLE: I don't believe this memorandum indicates Ms. Choate ever heard Mr. McDougal say 15 16 that. This is what was reported by others. I am happy to have her testify what she heard from 17 18 others. 19 BY MR. GICALE: 20 0 This is what they told you? 21 He may have said a lot of things to me too. Again, I don't remember. I don't remember. 22 42 1 0 Did he say these kinds of things to you as 2 well? 3 He said some things to me that I found 4 distasteful. It may have been those things and it 5 may have been other kinds of things. He was very adamant that they weren't working very well with him, 6 7 as I recall. 8 MR. COLE: How many discussions did you 9 have with him, if you recall? THE WITNESS: Oh, not too many. He was one 10 of those people who, like I said, he wasn't going to 11 12 have much of a conversation with an aide. When he 13 was forced the talk to somebody like me, he did, but he was really very condescending. 14 BY MR. GICALE: 15 16 Other than the meeting you attended with the governor where Mr. McDougal was present, were 17 your other contacts with McDougal over the phone or 18 19 were they in person?

21 I'm going to show you what -- let's mark 22 this for identification.

On the phone, over the phone.

		43
1	(Choate Exhibit 1 identified.)	
2	BY MR. GICALE:	
3	Q I'm going to show you what is marked for	
4	identification as Exhibit Choate 1. It is a printout	
5	of a schedule.	
6	A Okay.	
7	Q That is represented to be the governor's	
8	schedule.	
9	A Right.	
10	Q In the upper left-hand corner there is a	
11	date, 04/86. The month does not appear to be	
12	present. In the middle of that schedule it says	
13	"2:00 p.m. appointment with McDougal, Butler, J.C."	
14	Do you know whether or not this is the schedule for	
15	the governor on March 4, 1986 for the meeting you	
16	attended?	
17	A It is the kind of thing we got. That's the	
18	kind of thing that was produced all the time. If	
19	that's when the meeting was scheduled, and I'm J.C.,	
20	that is accurate.	
21	Q So if a meeting was scheduled, you would	
22	get a copy of this total schedule for the day with	
		44
1	your particular meeting on it?	44
	your particular meeting on it? A I think I probably did get a copy of the	44
1		44
1 2	A I think I probably did get a copy of the	44
1 2 3	A I think I probably did get a copy of the whole day, yes. I probably did.	44
1 2 3 4	A I think I probably did get a copy of the whole day, yes. I probably did. Q I'm going to show you another memorandum	44
1 2 3 4 5	A I think I probably did get a copy of the whole day, yes. I probably did. Q I'm going to show you another memorandum marked for identification as DKSN 013404 and 405.	44
1 2 3 4 5 6	A I think I probably did get a copy of the whole day, yes. I probably did. Q I'm going to show you another memorandum marked for identification as DKSN 013404 and 405. A Okay.	44
1 2 3 4 5 6 7	A I think I probably did get a copy of the whole day, yes. I probably did. Q I'm going to show you another memorandum marked for identification as DKSN 013404 and 405. A Okay. Q This is a memorandum dated March 5, 1986,	44
1 2 3 4 5 6 7 8	A I think I probably did get a copy of the whole day, yes. I probably did. Q I'm going to show you another memorandum marked for identification as DKSN 013404 and 405. A Okay. Q This is a memorandum dated March 5, 1986, and it is to the governor from yourself, "subject:	44
1 2 3 4 5 6 7 8 9	A I think I probably did get a copy of the whole day, yes. I probably did. Q I'm going to show you another memorandum marked for identification as DKSN 013404 and 405. A Okay. Q This is a memorandum dated March 5, 1986, and it is to the governor from yourself, "subject: McDougal-health department meeting with you."	44
1 2 3 4 5 6 7 8 9	A I think I probably did get a copy of the whole day, yes. I probably did. Q I'm going to show you another memorandum marked for identification as DKSN 013404 and 405. A Okay. Q This is a memorandum dated March 5, 1986, and it is to the governor from yourself, "subject: McDougal-health department meeting with you." Take a moment to review that memorandum.	44
1 2 3 4 5 6 7 8 9 10 11	A I think I probably did get a copy of the whole day, yes. I probably did. Q I'm going to show you another memorandum marked for identification as DKSN 013404 and 405. A Okay. Q This is a memorandum dated March 5, 1986, and it is to the governor from yourself, "subject: McDougal-health department meeting with you." Take a moment to review that memorandum. (Witness examined the document.)	44
1 2 3 4 5 6 7 8 9 10 11 12	A I think I probably did get a copy of the whole day, yes. I probably did. Q I'm going to show you another memorandum marked for identification as DKSN 013404 and 405. A Okay. Q This is a memorandum dated March 5, 1986, and it is to the governor from yourself, "subject: McDougal-health department meeting with you." Take a moment to review that memorandum. (Witness examined the document.) A See, the dates	44
1 2 3 4 5 6 7 8 9 10 11 12 13	A I think I probably did get a copy of the whole day, yes. I probably did. Q I'm going to show you another memorandum marked for identification as DKSN 013404 and 405. A Okay. Q This is a memorandum dated March 5, 1986, and it is to the governor from yourself, "subject: McDougal-health department meeting with you." Take a moment to review that memorandum. (Witness examined the document.) A See, the dates Q Does that memorandum refresh your	44
1 2 3 4 5 6 7 8 9 10 11 12 13 14	A I think I probably did get a copy of the whole day, yes. I probably did. Q I'm going to show you another memorandum marked for identification as DKSN 013404 and 405. A Okay. Q This is a memorandum dated March 5, 1986, and it is to the governor from yourself, "subject: McDougal-health department meeting with you." Take a moment to review that memorandum. (Witness examined the document.) A See, the dates Q Does that memorandum refresh your recollection? A Wait a minute. Let me ask you something. Can I ask you a question? I'm not getting these in	44
1 2 3 4 5 6 7 8 9 10 11 12 13 14 15	A I think I probably did get a copy of the whole day, yes. I probably did. Q I'm going to show you another memorandum marked for identification as DKSN 013404 and 405. A Okay. Q This is a memorandum dated March 5, 1986, and it is to the governor from yourself, "subject: McDougal-health department meeting with you." Take a moment to review that memorandum. (Witness examined the document.) A See, the dates Q Does that memorandum refresh your recollection? A Wait a minute. Let me ask you something.	44
1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16	A I think I probably did get a copy of the whole day, yes. I probably did. Q I'm going to show you another memorandum marked for identification as DKSN 013404 and 405. A Okay. Q This is a memorandum dated March 5, 1986, and it is to the governor from yourself, "subject: McDougal-health department meeting with you." Take a moment to review that memorandum. (Witness examined the document.) A See, the dates Q Does that memorandum refresh your recollection? A Wait a minute. Let me ask you something. Can I ask you a question? I'm not getting these in any kind of sequence of dates. You are just confusing me more. What do you want? What do you	44
1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17	A I think I probably did get a copy of the whole day, yes. I probably did. Q I'm going to show you another memorandum marked for identification as DKSN 013404 and 405. A Okay. Q This is a memorandum dated March 5, 1986, and it is to the governor from yourself, "subject: McDougal-health department meeting with you." Take a moment to review that memorandum. (Witness examined the document.) A See, the dates Q Does that memorandum refresh your recollection? A Wait a minute. Let me ask you something. Can I ask you a question? I'm not getting these in any kind of sequence of dates. You are just	44
1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18	A I think I probably did get a copy of the whole day, yes. I probably did. Q I'm going to show you another memorandum marked for identification as DKSN 013404 and 405. A Okay. Q This is a memorandum dated March 5, 1986, and it is to the governor from yourself, "subject: McDougal-health department meeting with you." Take a moment to review that memorandum. (Witness examined the document.) A See, the dates Q Does that memorandum refresh your recollection? A Wait a minute. Let me ask you something. Can I ask you a question? I'm not getting these in any kind of sequence of dates. You are just confusing me more. What do you want? What do you	44
1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19	A I think I probably did get a copy of the whole day, yes. I probably did. Q I'm going to show you another memorandum marked for identification as DKSN 013404 and 405. A Okay. Q This is a memorandum dated March 5, 1986, and it is to the governor from yourself, "subject: McDougal-health department meeting with you." Take a moment to review that memorandum. (Witness examined the document.) A See, the dates Q Does that memorandum refresh your recollection? A Wait a minute. Let me ask you something. Can I ask you a question? I'm not getting these in any kind of sequence of dates. You are just confusing me more. What do you want? What do you want from me? I wrote the memo, yes. I wrote the	44

A I don't think you have.

MR. COLE: Mr. Gicale, for one thing, I think we have some notes of the meeting itself. I don't know whether they are Ms. Choate's notes or not, although I believe they may be her notes. I think in terms of refreshing her recollection of the events that she is testifying to, it would be helpful to show her all the documents we have in sequence, if we can do that.

MR. GICALE: Some of those notes, in fairness, are not dated. I do intend to do this, but I have -- so the record is accurate --

MR. COLE: If they are notes of the meeting, we know the date of the meetings.

MR. GICALE: I understand that. The documents I have given her are in sequence. The last document I referenced was the calendar for 3/4/86.

18 This is for 3/5.

MR. COLE: We have notes of the meeting on 3/4, which may be helpful. It is your examination.
You may proceed just as long as you are not confusing the witness.

THE WITNESS: I don't deny that I wrote this memo. I don't have a recollection of some of this stuff that is in the memo. But I wrote the memo, and I was there.

BY MR. GICALE:

Q This memo and the other memos that I have shown you with your name on them that are from you, do those accurately reflect what you had conveyed? Are those copies of memos that you had sent to the governor or Rasco on those dates?

A Yes, I'm sure they are. I have no doubt they are.

Q Getting back to this 3/5/86 memo, in the first paragraph it states you have talked to Butler and he tells you that the three men McDougal referenced in the meeting have been removed from those jobs.

A Yes, I see that, but I didn't remember that. I didn't remember that anybody was removed from any job.

Q Did Mr. Butler tell you why they were removed from their jobs?

A I don't remember. I didn't remember that they had been removed from their jobs, so how would I -- the question seems strange to me.

1 2

 Q Once again, did anybody instruct Mr. Butler to remove these men from their jobs?

A As far as I know, I don't recall that. I don't remember that anybody told Tom Butler he had to remove anybody from a job. I don't remember that at all. It could have happened, but I don't recall that.

Q Do you recall whether in that meeting or prior to the meeting whether the governor told the people there that Jim was his friend of 20 years who had never asked for a favor, plus the fact that --

A I remember somebody referencing that. I don't remember if he said that in the meeting or not, but I remember somebody referencing the fact that they had been friends for 20 years and as a courtesy to a friend and a supporter he would be happy to follow-up and have a meeting with this guy and the health department and try to sort out the problem, the disagreement, whatever.

- Q Do you recall Tom telling you that the sanitarians who Tom talked to wanted to know whether or not the governor was in agreement with McDougal's assessment?
 - A I don't remember that. I don't remember.
- Q Do you recall Tom Butler telling you that he defended the governor by saying that --
 - A Yes, I'm sure he did.
- Q By saying that the governor was there to listen as a courtesy to his friend and not really pass judgment?

A I don't remember that, but it sounds like something Tom Butler would say.

- Q I'm going to show you what is marked for identification as document DKSN 013412. It is a document dated 3/21/86.
 - A Yes.

Q Before we get to that document, let me also show you document DKSN 013281 through 282. I did take this out of sequence, and I apologize. This document is dated March 11, 1986. If you could look at the second document first, the March 11th

		49
1	document.	
2	(Witness examined the document.)	
3	A Okay.	
4	Q Now, that document, 13281 through 282, is a	
5	memorandum to Butler from Shelby through Bill Teer	
6	notifying Butler of the transfer of the following	
7	individuals, Lex Dobbins, Lane Townsend and Tom	
8	Jenkins, to separate projects.	
9	Do you recall whether or not you received a	
10	copy of that memorandum when that was sent to	
11	Mr. Butler?	
12	A I don't recall. I may well have, but I	
13	don't recall.	
14	Q Going back to the other document, DKSN	
15	013412, dated 3/21/86, have you had a chance to	
16	review that? Please take a moment to do that.	
17	(Witness examined the document.)	
18	A Yes. I wrote it.	
19	Q Is this document a copy of a document you	
20	wrote?	
21	A Yes. I wrote it, yes.	
22	Q Just so it is clear, can you read this,	
		50
1	your notes to us.	
2	A You want me to read the whole thing?	
3	Q Well, start with the first line and	
4	continue on.	
5	A "Had a call from T.A. Reed, construction	
6	person, mentioning Lex Dobbins as unfair."	
7	Q Who is T.A. Reed?	
8	A A construction person. I don't know. I	
9	don't remember T.A. Reed. I didn't remember Lex	
10	Dobbins even. "Mentioning Lex Dobbins as unfair.	
11	T.B.," which is Tom Butler, "said he would have Neil	
12	Glover get with him and work through any problem and	
13	Reed seemed satisfied. Tom said Reed then said what	
14	sounded like a verbatim comment Jim McDougal made	
15	several days ago (I related that entire conversation	
16	to you, 'don't want to get political, but if we had	
17	another governor he would fire Lex Dobbins. This	
17	kind of man can defeat Bill Clinton."	
18	Damamhan Jim gold that I am Dahhina Jim	
18 19	Remember, Jim said that Lex Dobbins Jim	
18 19 20	McDougal said "Lex Dobbins wasn't going to defeat	
18 19		

person like Lex Dobbins."

I forgot it was Lex Dobbins that McDougal was so irate about. "Tom, of course, is doing a check on this. Told Mr. Reed."

Q I believe the second page to this document, document DKSN 013413.

A "Tom, of course, is doing a check on this, told Mr. Reed he appreciated his concern." Okay.

Q Now, the quote starting with "don't want to get political," these are quotes of McDougal's?

A Yes, McDougal, McDougal.

Q And this is McDougal's statement to you or to Butler, if you recall?

A It says "I related that entire conversation to you," Jim McDougal made several days ago a comment. It sounds like something McDougal said to me. He said a lot of stuff like that. Maybe I am saying that that's exactly what he said to me. He said a lot of stuff like that.

Q He said he hadn't spent \$60,000 on him, referring to the governor?

A Yes, that he, McDougal, liked to brag about

that, how he helped put him in the governor's
mansion. He was a supporter of Bill Clinton's. He
had been a supporter for a long time. He was just a
jerk.
O Now, I'm going to show you a document the

Q Now, I'm going to show you a document that Mr. Cole had referred to earlier. It is an undated document. It is dated -- it is identified as DKSN 013419 and 13420. It is two pages of a document. I would like you to take a moment --

MR. COLE: It does say "March 4" in the first line.

THE WITNESS: It says "March 4" right there. It is my handwriting. It says "March 4." My writing is hard to read.

BY MR. GICALE:

Q That is not a great copy. Take a moment to review that.

(Witness examined the document.)

A Yes, yes. I just didn't remember it was

Q After reviewing this set of notes -- these are your notes; correct?

		53
1	A Right.	
2	Q Does this refresh your recollection as to	
3	what McDougal said during the meeting?	
4	A Yes, it does.	
5	Q These are your notes	
6	A Yes, they are.	
7	Q of that meeting of March 4, '86?	
8	A I guess they must be, must be. March 4th,	
9	if that's the day we met with the governor. He got	
0	really he just acted awful. He just acted awful.	
1	Q Now, were these McDougal's words "you are	
2	here to gang me" is that what he said?	
3	A Where are you seeing that?	
4	Q I'm referring to five lines down.	
5	A "Gang up on me," something like that, "gang	
6	up on me."	
7	MR. COLE: Would that be a reference to the	
8	health department officials whose names are written	
9	in the margin, Saltzman, Butler and Mr. Hill?	
0.0	THE WITNESS: Right, it would be.	
1	BY MR. GICALE:	
2	Q Did he say Dobbins made a concerted effort	
		54
1	of intimidation?	54
1 2	of intimidation? A Yes. It was Dobbins. He had really bad	54
		54
2	A Yes. It was Dobbins. He had really bad feelings about Mr. Dobbins. Q Now, later in the page it says something	54
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of two papers at the time. They had a lot of disdain for Bill Clinton. So he is referring to the fact that if you gave them some information, they would iump on it and make a big deal out of it.

It is the only paper now.

BY MR. GICALE:

1 2

Q The next line down says what?

A "I would fire Dobbins today. He is not sane, he is not qualified, not stable. He is agitating other sanitarians." This is McDougal saying all this stuff. "I have taken all" -- "we have taken all we will take, he must go, I have been stabbed in the back, I don't want to deal with any more long-haired, bearded hippies, no fanatics."

Q Does this refresh your recollection that in that meeting, McDougal indicated that he would fire Dobbins that day?

A Yes. He was real upset and agitated.

Q And that he felt that Dobbins must go?

A I don't know. I just didn't remember that

21 he said that. I know he said a lot of things about 22 the sanitarian. I didn't remember that it was

Dobbins either. I remember the governor was embarrassed by the way he acted.

Q When he said that Dobbins should be fired that day and that he must go, do you recall what Mr. Clinton's response was to those statements?

A After McDougal got through ranting and raving, and that's really what it was, Bill Clinton got up and said the way you are talking is inexcusable, and blah, blah, blah, these people are professional staff. He was very -- he defended us and them. Like I said, he was embarrassed that McDougal just went off on this tear like that. He said we are not cutting you any slack -- those may not be the exact words, but something to that effect -- that these people are professional and they will revisit this with you and get it straightened

McDougal came thinking that the governor was going to cut him some slack.

out, do what you are supposed to do.

Like I said, I didn't remember that it was Dobbins. I just remember he got really upset about the sanitarians.

260 57 1 0 Shortly after the meeting, as you can see 2 from --3 Various notes and memos. Α 4 -- various notes and memos. Mr. Dobbins was 0 5 removed from this job. 6 I see that, yes. Do you know why he was removed? 7 0 8 I think that was probably real prudent. Α Do you know why he was removed? 9 0 10 No. I certainly would have concurred with 11 it. If you asked me, I would have said get some other sanitarian out there. McDougal had a thing 12 13 about Mr. Dobbins obviously. It seemed like the 14 right thing to do. I didn't know that happened: I 15 didn't recall it, anyway. You don't recall whether or not you had a 16 17 conversation with Butler about the removal of the 18 sanitarians and whether or not you relaved that to 19 the governor? I don't remember that at all. I don't. 20 Α Do you recall any subsequent conversation with the governor about McDougal and this problem?

21 22

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A No. I think at one point I thanked him for 1 2 standing up for us and taking our side against 3 McDougal. 4

I'm going to show you what is marked for identification as DKRT 800609 A, a memorandum dated April 29. I believe it is '86, although there is a 7 confidential stamp on top.

It is to me from Jerry Hill.

9 0 To Janice Choate from Jerry Hill. Take a 10 moment to look at that.

(Witness examined the document.)

It is very hard to read.

MR. COLE: I believe I have a clearer copy

14 of that memorandum. 15

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THE WITNESS: It is real hard to read. MR. COLE: It is dated April 29, 1986?

17 MR. GICALE: Yes.

MR. COLE: Here is a clear copy. Let me 18 note for the record this is DKSN 013407 through 411. 19

THE WITNESS: Okay.

MR. COLE: It is a memorandum to you from

22 Jerry Hill on Arkansas Department of Health

59 1 stationery. 2 THE WITNESS: Thank you. 3 (Witness examined the document.) 4 Okav. 5 BY MR. GICALE: 6 Thank you for taking the time to review a 7 fairly long memo. After now having reviewed it, do 8 you recall having received this memo from Mr. Hill on April 29, 1986? 9 10 I don't know. I really don't have any 11 recollection of it. It doesn't even ring a bell to 12 me. 13 Does reading it refresh your recollection 14 with respect to that memo? No, it doesn't, it doesn't even ring a 15 16 hell 17 Do you recall whether there were further 18 conversations about violations on Maple Creek Farms 19 and further discussions you may have had with the 20 sanitarian who succeeded Mr. Dobbins? 21 That memo doesn't ring any bells. That one 22 doesn't ring any bells. It is pretty long and wordy, 60 1 but it doesn't ring any bell. 2 I'm showing you another memorandum, marked 3 DKRT 80060. It is a memorandum dated June 26, 1986 to the governor from yourself, "subject: Maple Creek 4 5 Farms." If you could take a moment to review this. 6 Okav. 7 (Witness examined the document.) 8 Okav. 9 Is this a copy of your memo to the governor 10 on June 26, 1986? 11 A Yes, this is from me. 12 Does this refresh your recollection as to 13 what you told the governor on that date --14 A No.

17 memo.

18 Q This is -
19 A Let me tell you, I thought that after we

20 had the meeting with the governor -- and at some

21 point I thought I had just gotten a memo from Tom

22 saying that they were working with him and they were

-- or at least placed in this memo?

I just don't remember this particular

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Α

trying to resolve all the problems. I just don't
remember that from Jerry. I don't really remember
this. It doesn't surprise me that there is some sort
of ongoing saga, but maybe I just had blocked it
out. I don't know. I just don't remember that memo
to me from Jerry Hill.

Q Do you recall --

 A It is my memo.

Q This memo is several months after the meeting in March. Do you recall being asked by the governor or Ms. Wright or Ms. Rasco to continue to follow up on this matter?

A Well, I am sure -- well, I mean, there is follow-up. I'm sure it was requested.

Q Do you recall whether from time to time any of those individuals, the governor, Ms. Rasco, Ms. Wright or anybody from the governor's office would call you to find out what the status of things was with respect to the McDougal Maple Creek Farms issue?

A Like I said, I just don't remember. I don't remember this continuing on to whatever date

that is, June, to June.

O That is June

Q That is June 26, 1986.

A Yes. I just thought that -- like I said, I just sort of thought stuff was taken care of. I don't remember these follow-up things with Jerry.

Q Do you recall any other follow-up conversations or discussions you had with anyone, the governor or Ms. Rasco or Ms. Wright with respect to this issue?

A No. But I think standard procedure would be if Tom Butler called me about something that was a saga, a meeting we had before and ongoing problems, I would have alerted Carol, not Betsy necessarily, but Carol I would have alerted. So I'm sure she was aware of this.

Q Do you recall any other involvement you had with respect to this issue?

A I really don't. I don't even remember that I ever talked to McDougal again after that day in the governor's office.

Q To go back again to the date of the meeting, your notes reflect that McDougal stated that

Dobbins must go, and then within a short period 1 2 after, on March 11th, I have shown you a copy of a 3 memo that indicates Mr. Dobbins was reassigned.

Wasn't working on that, yes.

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5 And you do not recall -- your testimony is 6 you do not recall who directed or made the decision 7 to reassign Mr. Dobbins?

I think the health department probably did, but that is just speculation on my part. And I think it is prudent that they did.

You have no recollection of who made the 11 12 decision?

I don't think the governor told them they had to change. The governor was so embarrassed by the way McDougal acted that he just wanted McDougal to comply and do what he was supposed to do and said the health department is going to work with you.

17 Do you recall -- you just said that you 18 19 don't think that the governor did. Do you recall 20 whether or not there was some discussion in that meeting or in any subsequent meeting with the 21 governor about whether or not Dobbins or whoever was 22

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in charge of Maple Creek Farms from the health 1 2 department should be removed? 3

No. I don't.

4 MR. COLE: By that, when you say no, you mean you have no recollection of any such 5 6 discussions?

THE WITNESS: I have no recollection. right. I just don't have any recollection.

BY MR. GICALE:

Did you know the governor prior to assuming 10 11 your duties in April of 1985? 12

Yes. I knew him.

0 How did you know the governor?

Well, I had been a supporter of his and had 14 been involved in his campaign. That's how I knew 15 16 him.

17 How did you come to take the position in 18 the governor's office in April of '85?

19 Carol Rasco called me and I went to work 20 for her. She needed somebody to help her. It was 21 soon thereafter that I took over. She was the

22 liaison at that point, and I took over at that point.

after working there shortly, not too long after. I can't remember when I took over as the aide.

But she and I had been friends a long time and known each other through church. She just said, hey, I need some help. I went over and she knew I was real interested in the governor and what he was about.

Then, when he wanted Carol to take this other position, he asked me if I would be willing to take over as the liaison for both those health and human service agencies. And I said yes, I would.

Q Was it Carol that initially contacted you about the position, or the governor?

A It was Carol who initially contacted me. It was to work directly with her at that point. I did for a while.

Q How long had you known her prior to April of '85?

A For many years, 10, 12 years or more, and known her well.

Q Was it through her that you became involved with the governor's campaigns?

A No, it wasn't.

MR. COLE: I think some reasonable inquiry about background here is appropriate, but at some point, your pushing beyond our resolution to explore the political activities of Ms. Choate as far as Arkansas politics are concerned is not within the scope of our resolution.

THE WITNESS: I liked him or I wouldn't have been working for him.

BY MR. GICALE:

Q Since this incident with Mr. McDougal and Maple Creek Farms, since June of '86, which is the date of the last memo I showed you, have you talked to either the governor or Ms. Rasco?

A Not the governor. I have talked to Carol.

O About this issue?

A I talked to her several months ago, yes, because some lawyer called to talk to me about this issue. And I'm sorry, I can't remember his name. It has been several months ago. I don't know how many months ago.

Q Called to talk to you about this issue, or

called to talk to her?

1

2 No. He called and talked to me. Carol 3 called and said that I would be getting a call. It 4 was about this meeting that went on with McDougal, 5 and just to tell him whatever I remembered. I didn't have any of this before me at that time, none of 6 7 this. Somebody had to ferret out the boxes and pull

these things out for you guys. I haven't seen any of 8

9 this since 1986.

Do you know if the attorney was from the 10 0 House? 11

12 A I'm sorry, I can't remember. I think it was -- no, I don't think the person -- I don't think 13 14 the person was you-all's attorney. I think he was a private attorney. I don't remember his name. I'm 15

16 sorry. 17

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In any event, Ms. Rasco called you prior to 0 this attorney calling you?

19 She did. She said so-and-so is going to call you and talk to you about McDougal, and I said 20 what for. She said they want to know if you recall 21

22 the meeting and any of the things that went on

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related to Maple Creek Farms. I said okay, I will 2 talk to him, whatever. 3

He did call. I talked to him a couple of times and recalled, as best I could, the meeting. It is just kind of bizarre, at that point I remembered as much as I did. Some of this has triggered some memory, because I surely didn't remember Lex Dobbins was the sanitarian.

Was the attorney's name Mr. Paladino? O

Α No, it wasn't Paladino.

11 Do you have a phone number or a name for 12 the attorney?

At some point I did. He called me and I returned the calls. The calls were at home. I was not called at work. Just a minute. Let me think.

(Pause.)

Bill -- John -- Bill. I'm sorry. I can't remember.

Did you meet with the attorney? 0

A No. Just talked with him on the phone, 20 21 like twice, I think.

In any event, you have his name and phone

number at home?

A No, I'm sure I don't. I probably had
written it down at some point to return his phone
call. I didn't keep it, because it didn't amount to
anything.

MR. COLE: Were there articles in the press
about this at that time? I believe -- in fact I

MR. COLE: Were there articles in the press about this at that time? I believe -- in fact, I have a couple articles here from one of the local papers.

THE WITNESS: You mean when this lawyer talked to me?

MR. COLE: Yes.

THE WITNESS: Maybe. I don't know.

14 Maybe.

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MR. COLE: I think I left them in my
office. There was some reporting on this issue, and,
if I'm recalling correctly, from perhaps the Memphis
paper, about these sanitarians being reassigned.

THE WITNESS: I don't know. I don't take that paper. Even if I took the Democrat and

something appeared in it, I wouldn't --

BY MR. GICALE:

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Q Do you recall what month it was that this attorney called you?

A It may have been earlier this year or last year. It has been in the last year, though, because Susie Whittaker called me to ask if I remembered doing memos. I said yes, I'm sure I did memos before and after the meeting.

Q Who is Susie Whittaker?

A She worked on the governor's staff with Mike Galt. He was a press secretary. Now Susie works in Arkansas on the Presidential -- on Bill Clinton's -- it is a real small staff of people who work. She is one of them. She works with that office.

Q When Ms. Rasco called you about this, did you talk to her about what you remembered about the events?

17 events?

18 A We didn't have much of a conversation at
19 all. She called and said Choate, I'm alerting you to
20 the fact that Bill, or whoever, is going to call you
21 and it is related to Maple Creek Farms, and the
22 meeting you had with the governor, and any problems

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that arose with McDougal. I said okay, I will talk
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     to him and remember as best I can.
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            It wasn't Paladino.
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        0
             How was Whitaker involved in this?
 5
             She called me because she said did I
 6
     remember doing memos and how would they have been
 7
     classified. I said, well, under health department
 8
     and McDougal. Look under any of the health
     department, because we boxed up stuff -- I may not
 9
10
    personally have boxed up things -- but things were
11
    boxed up year after year after year, because you have
12
    hundreds of memos and documents.
            But you have to keep them in a box, and
13
14
    they are stored somewhere, I think, in the bowels of
15
    the state capitol. She was the one evidently they
16
     asked to go over and ferret out the memos. But I
17
     didn't see them. I have not seen these until today.
18
             Whitaker was the one that they --
19
             They evidently called, somebody called
20
     her. I don't know if it was the attorney or somebody
21
     from Bill Clinton's office here. I have no idea.
22
     She didn't say. She just asked me if I could
                                                              72
 1
    remember where they might be catalogued.
 2
            I even offered to help her find them. I
 3
     said I will come over Saturday and help you. Then I
 4
    didn't hear anything back from her. I didn't know if
 5
    she ever unearthed them or not.
 6
             She called you before or after Rasco called
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    vou?
 8
             After. I think it was after.
        Α
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        0
             She talked to you after the attorney talked
10
     20 you?
11
             Yes, I think so. I talked to him on a
12
     couple different occasions, not for very long. He
    didn't ask me a lot of questions. I'm sorry, I can't
13
14
     remember his name. It hasn't been that many months
15
     ago.
16
             When Whitaker called you, where was she
17
     working at the time?
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             She is in the state of Arkansas, working
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     now on the President's staff. It is just a
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O So, she works for the President or she

Presidential office of about three or four people.

They are sort of a link to him and Arkansas folks.

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73 works for the state? 1 2 I don't think -- it is not state dollars. 3 I think people raise money --MR. COLE: You meant physically, 4 5 geographically in the state of Arkansas? 6 THE WITNESS: It is in Little Rock. 7 BY MR. GICALE: 8 It is an office of the President in the 9 state of Arkansas? 10 Yes. It is a small staff, maybe three or 11 four people. 12 The records you were talking about were state records? 13 14 Yes, they were state records. 15 Q Did you have conversations with anyone else 16 other than Ms. Whitaker and Ms. Rasco about this? 17 I didn't really have a conversation with Susie about it. I didn't have a conversation with 18 19 Carol about it. She was just alerting me I was going 20 to be asked some questions. 21 Did you talk to Betsy Wright about it? 22 No. I haven't seen her but once or twice 74 1 since she has been out of the state of Arkansas. 2 You indicated you talked to Butler? 3 Just recently. He called us to say Choate, 4 the press may call you because you are getting the subpoena. I don't know how he found out the press 5 knew, the Arkansas press people knew, because I 6 7 hadn't said anything. 8 I wasn't excited about coming to Washington 9 over something I think is as inane as this. I hate that my tax dollars paid for my ticket today, just 10 11 for the record. 12 Q Did you talk to anyone else from the White 13 House or any other representatives of the President's 14 staff or office --15 A No. I did not.

18 **I**? Before coming here, did you tell Ms. Rasco 19 20 that you would be testifying? No. I didn't talk to Carol. 21 Α

-- about this incident since '86?

No, I don't think so. I mean, why would

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Q Do you continue to maintain contact with

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		13
1	her?	
2	A Yes, she is a very good friend of mine. I	
3	did not speak to her. She has no idea I'm here	
4	today. Just people in my office. They have given me	
5	a real hard time about it.	
6	MR. COLE: Off the record.	
7	(Discussion off the record.)	
8	MR. GICALE: I have nothing further at this	
9	point.	
0	EXAMINATION	
1	BY MR. COLE:	
2	Q I just want to ask very few follow-up	
3	questions, Ms. Choate, to try to clarify some of your	
4	previous testimony here.	
5	Going back to the first discussions that	
6	you had with Governor Clinton about this	
7	McDougal-Maple Creek matter, and I realize Mr. Gicale	
8	showed you a number of memoranda, including one that	
9	referenced a document in the governor's coat pocket,	
20	to the extent any of that refreshed your	
21	recollection, going back to the first meeting, did	
22	Governor Clinton indicate to you that Mr. McDougal	
_	develor emiliar meleure to year war with war and	76
1	should be given any special treatment of any kind?	, 0
2	A No, no. I just knew he was a friend of	
3	Bill Clinton's, that's all. He didn't, no.	
4	Q Do you recall whether Governor Clinton	
5	indicated any special concern when he heard there was	
6	a problem involving Mr. McDougal?	
7	A No. Just at that meeting that day when we	
8	all got together.	
9	Q Right now I'm focusing on your first	
0	contacts, when the governor first learned from you	
11	that there was a problem involving Mr. McDougal.	
12	A He may not have learned it from me first.	
13	I don't remember that. I don't remember whether I am	
14	the one who got the call and informed the governor at	
15	that time. I don't remember those things. I just	
16	don't. But no.	
17	Q To the best of your recollection, he never	
18	indicated to you, or in your presence, that	
19	Mr. McDougal should receive any special treatment or	
20	any preferential treatment?	
21	A Absolutely not. I think he was thoroughly	

disgusted that day because of that meeting.

Q I'm not to the meeting, no.
 A Prior to that, no. I never had a
 conversation with Bill Clinton about Mr. McDougal.

Q In the meeting itself that I believe the documents indicate took place on March 4th, is that the kind of meeting that would ordinarily be provided to a business person, a constituent in Arkansas who had a problem with one of the state regulatory agencies?

A Yes and no, yes and no. You would pick and choose. Some were going to be more likely to happen than others. Again, because McDougal was a long-time political friend, as a courtesy and because of his support, he was going to give him an audience. He gave an audience to people who weren't supporters of his.

Q That was my question, whether this was unique, whether Mr. McDougal got something that no one in the governor's administration had gotten?

A No.

Q Similar meetings had been set up on other occasions?

A Yes, right.

Q You, I believe, testified that you don't know who set up the meeting itself?

A I don't remember. I just don't remember. I am thinking maybe Carol Rasco did, but that's just because --

Q You don't know even whether Governor Clinton directed that a meeting take place or whether one of his staff decided to schedule the meeting?

A Right. I don't know. It could have been either way.

Q That's fine. If you don't know, you don't know.

At the meeting itself, after Mr. McDougal made his statements concerning Mr. Dobbins and the health department, was Governor Clinton supportive of the staff?

A Yes, very. He was, he was very supportive.

Q And you testified, I believe, that he directed or indicated to Mr. McDougal that Mr. McDougal would have to comply with the

79 regulations or the requirements that the health 1 department was enforcing. Is that your recollection 2 3 of what occurred? 4 Yes, it is my recollection. 5 That's what he said at the meeting in 6 Mr. McDougal's presence? 7 Yes. 8 And after the meeting, did Governor Clinton 0 direct any of the health department staff to take any 9 10 action that you recall? You know, I don't know. He may have said, 11 hey, you guys need to get together and work through 12 this, let's get it straightened out and move on down 13 the road. I don't know. 14 15 Not speculating about what might have happened, in terms of your personal knowledge? 16 In my recollection, I just don't remember. 17 Α Were you there for all of the meeting? 18 0 19 A Yes. 20 0 What happened when the meeting broke up? 21 I went on back down to my office and did Α other things. Sometimes people lingered and visited 22 80 1 with him a little while. 2 In this particular instance, do you remember whether the meeting continued after you 3 4 left? 5 I don't think it did, but it may have. I 6 don't remember. 7 At any time, either at the meeting, immediately after the meeting, or thereafter, were 8 you ever told by the governor to do anything about 9 this matter? 10 11 No. never. I was not. 12 Do you have any knowledge that the governor 13 told anyone else to do anything? I have no knowledge of that. 14 15 So, really what you know is what you have learned from looking at the documents today, and in 16 17 fact, you didn't even recall --I didn't recall some of it before. 18

Q I want to show you a document, DKSN 013404

-- that certain sanitarians had been

That's correct.

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reassigned.

A

through 405. It is a two-page memorandum to the governor from you, Ms. Choate, dated March 5, 1986.

A The meeting was on the 4th?

Q Yes. I believe this would be after the meeting. There is a sentence in this memorandum that, I believe, could cause a reader some confusion. I want to direct your attention to it. It is the second sentence in the memorandum. The first states "I have talked with Tom Butler this a.m. " That would be you telling the governor you had spoken with Tom Butler. The second sentence states "he tells me that the three men Jim McDougal referenced in yesterday's meeting have been removed from those jobs."

Now, I want the frame this question carefully, if I could. I think that a reader could interpret that in at least two ways. One way might be that the governor had directed you to have those people removed, and that you are reporting back to him that you have checked with Tom Butler and the three men have been removed from the job. Is that what this was meant to convey?

A No. The governor didn't have any kind of dialogue like that with me. Tom probably called me and is giving me this information. I didn't remember that.

Q That would be the second interpretation that a reader might make, that you had spoken with Mr. Butler, that Mr. Butler had, at his own initiative, informed you that the three men had been removed from their jobs, and you are passing this information on to the governor?

A Alerting him, yes.

Q Do you have any recollection as to which --

A I didn't remember that Tom had removed people from the jobs. I didn't remember that.

Q To be clear, you have no recollection that the governor directed you to have the men removed and that you were reporting back in this memorandum?

A No, the governor didn't direct me to do something like that.

Q If someone read the memorandum in that way, your belief is that would not be the correct way to read the memorandum?

1 Right. Α

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2 You are reporting to the governor of what Tom Butler told you and nothing more than that? 3

That's correct. This is just an aside, but

4 5 I'm surprised there isn't some sort of a memo from

Tom, maybe that the health department has. It seems 6

to me, usually after a phone conversation with 7

someone like a Tom Butler or head of any other 8

agency, I would get a follow-up memo of some kind. 9

10 Oftentimes there are follow-up memos saying we are 11

working on this issue, here is the status.

O Do you know, from your experience as the 13 governor's liaison with the health department,

whether the health department had a policy that when 14

there was a dispute between inspectors or sanitarians 15

16 and a developer, in this case, that they would, as a

matter of course, reassign inspectors and put a new 17

18 inspector on the matter?

> I honestly don't know. I just think because there was such a brouhaha about it, it seemed like an untenable situation. Like I say, I think it

22 is prudent they put somebody else on. Obviously,

84

1 these people, to McDougal, who was very difficult to 2 work with, this Dobbins wasn't going to make any 3 headway with him.

In your dealings with Mr. McDougal, you 4 5 found him difficult to deal with?

6 Very, very difficult; very arrogant and 7 very condescending.

8 Was Mr. McDougal prone to making statements about his personal relationship with the governor and 9 his political influence? 10

11 Yes, yes, yes. He loved to tell people how 12 much money he spent. He was real braggadocio.

In light of the statements that

Mr. McDougal would make, that you just testified to, 14

about his personal relationship with the governor and 15

his political influence, are you aware in this matter 16 whether the governor did anything to give 17

18 Mr. McDougal special treatment?

No. No. I am not.

To the best of your knowledge, that didn't 20

happen here? 21 22

No. To the best of my knowledge, it did

1	not happen.
2	MR. COLE: I don't have anything further.
3	EXAMINATION
4	BY MR. GICALE:
5	Q Where was Ms. Rasco working when she called
6	you?
7	A She was here in Washington. It has been in
8	the last year. She has been with Bill Clinton since
9	right after he took office.
10	Q She was working at the White House?
11	A Yes. I think she called me at night and
12	said hey, somebody is going to call you in the next
13	few days. She told me the person's name, but it
14	wasn't Paladino.
15	MR. GICALE: I have nothing further.
16	(Whereupon, at 2:22 p.m., the deposition
17	was concluded.)
18	
19	
20	JANICE D. CHOATE
21	
22	

CERTIFICATE OF NOTARY PUBLIC & REPORTER

I, BRENDA M. SMONSKEY, the officer before whom the foregoing deposition was taken, do hereby certify that the witness whose testimony appears in the foregoing deposition was duly sworn; that the testimony of said witness was taken in shorthand and thereafter reduced to typewriting by me or under my direction; that said deposition is a true record of the testimony given by said witness; that I am neither counsel for, related to, nor employed by any of the parties to the action in which this deposition was taken; and, further, that I am not a relative or employee of any attorney or counsel employed by the parties hereto, nor financially or otherwise interested in the outcome of this action.

Notary Public in and for the District of Columbia

My Commission Expires

SEPTEMBER 14, 1996

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ERRATA

PAGE	LINE	CHANGE FROM	CHANGE TO	REASON
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Janice Choate

TUESDAY

cepted	Requests	From 12:01 AH 3-04-86 To 11:59 PM 3-04-86 Princed on 3-03-86 Page 1
Date	Time	Contact Name Thome
04-86	8:30 AH	Continental Breakfast at the Hanston with Leadership Pine Bluff hoard members/Cooss.
	9:30 AH	Trooper will take Gov. to Capitol.
	9:45 AH	STAFF & PHONE TIME.
	10:45 AM	Appe with Judge Hole/HAS & BW.
	11:40 AH	Trooper will take Gov. to the Law School at 400 West Harkham
	12:00 PM	Speak to Law Students/KR. Event Location - Law School Room 602
	1:00 PH	Trooper will take Gov. to Capitol.
	1:15 PM	STAFF & PHONE TIME.
	2:00 PH	Appc. with Jim HcDougal/Tom Bucler/JC.
	3:00 PH	PROC SESSION/CF.
	4:00 PH	STAFF & PHONE TIME.
	5:00 PH	Trooper will take Gov. to Hansion.
	6:30 PM	Trooper will take Gov. to Excelsior.
	7:30 FH	Arkansas Cicizen of the Year Award Banquet: Event Location - Grand Ballroom The Excelsion Rocal
	•	BLACK TIE

Remarks - Gov. to present award.

Trooper will take Gov. to Hansion when finished.



DEPOSITION OF WILLIAM BURT BRADY IN RE: S. RES. 120

TUESDAY, DECEMBER 12, 1995

U.S. SENATE,
COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS,
SPECIAL COMMITTEE TO INVESTIGATE WHITEWATER
DEVELOPMENT CORPORATION AND RELATED MATTERS,
Washington, DC.

Deposition of WILLIAM BURT BRADY, called for examination pursuant to notice of deposition, at 2:04 p.m. in Room 534 of the Dirksen Senate Office Building, before PATRICIA A. ZUBER, a Notary Public within and for the District of Columbia, when were present:

LOUIS J. GICALE, ESQ.
Majority Deputy Special Counsel
LANCE COLE, ESQ.
Minority Deputy Special Counsel
STEVEN H. FROMEWICK, ESQ.
Minority Assistant Special Counsel
U.S. Senate
Committee on Banking, Housing, and Urban Affairs
534 Dirksen Building
Washington, DC 20510
On behalf of the Committee.

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WITNESS	EXAMINATION
William Burt Brady	
by Mr. Gicale	g
by Mr. Cole	
by Mr. Gicale	63
by Mr. Cole	

'90 and February of '91 I was just messing around in

```
Pine Bluff.
 1
 2
             So you were in general practice of law
    from '86 to '90?
 3
 4
             Yes.
        Α
             To November of '90; correct? And prior to
 5
        0
 6
    going to the securities, working at the securities
7
    department in Arkansas, where did you work?
             Primarily I was legal counsel for an
8
    insurance company in Little Rock that's now sold to
9
    an out-of-state company and no longer in business.
10
11
             What was the name of that company?
        0
             Pyramid Life Insurance Company of America,
12
    and I was with them from '75 through '64 -- '64
13
14
    through '75.
15
             '64 through '75 you were with that company?
        O
16
        Α
             And what did you do between '75 and '79?
17
        0
18
        Α
             Oh, general practice in Little Rock. I
    really didn't do anything. I more or less retired.
19
             You were retired when, during that time
20
21
    period?
22
             From about '75 through '79.
                                                              6
 1
             So you didn't -- you had a general practice
    but it was limited -- or you were, you were not
 2
    practicing during that time period?
 3
             I'm sorry?
 4
 5
        Q
             You were not practicing between '75 and
 6
    <sup>2</sup>79?
7
             Only in a limited way. I did some
 8
    practice, but not a lot.
             Were you employed in any other capacity
9
    during that time period between '75 and '79?
10
             Not to any degree, no.
11
             Prior to '64, what did you do then?
12
        0
             Just a second. I'm having to look at my
13
    resume to see. Prior to '64 I was with Georgia
14
    Pacific Corporation in its classic division for about
15
16
    six months, and before that, from '61 through '63, I
    was an associate of Rose, Meek, House, Barron, Nash &
17
18
    Williamson in Little Rock.
             That was the predecessor of the Rose Law
19
        0
20
    Firm?
21
             So I understand.
        Α
22
        O
             And did you go there -- when did you
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graduate from law school?

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In 1954 I graduated from law school, and I was in the service between '54 and '56. Then I was a law clerk for a judge on the Arkansas Supreme Court between '56 and '57. I returned to Favetteville to study accounting, and in '58 I was trial attorney for the highway department, and then in '59 and '61 I was a law clerk for a federal judge here in Little Rock, and then I went to the Rose Law Firm from federal judge clerkship.

It would be a help to us if you would send us a copy of your resume --

I'd be happy to.

-- after we complete this. Now, when you were at the Securities Commission, what was your title there?

Primarily I was an attorney in the Α broker/dealer division.

Now, Mr. Brady, this deposition is being conducted pursuant to Senate Resolution 120. The resolution establishes a special committee administered by the Banking Committee to conduct an

1 investigation involving Whitewater Development 2 Corporation, Madison Guaranty Savings & Loan 3 Association, Capital Management Services, 4 Incorporated, the Arkansas Development and Finance 5 Authority, and other related matters. 6 Section 1(b)(3)(A) and (B) of Senate 7

Resolution 120 authorizes an investigation and public hearings into A, the operation, solvency and

8 9 regulation of Madison Guaranty Savings & Loan

10 Association and any subsidiary, affiliate or other 11 entity owned or controlled by Madison Guaranty

12 Savings & Loan Association. B, the activities,

13 investments and tax liability of Whitewater

14 Development Corporation as related to Whitewater

15 Development Corporation or its officers, directors 16

and shareholders.

You are requested to testify in a December -- within the last week. This deposition is being taken in advance of public hearings which may occur in early 1996. It's possible that you could testify at those hearings.

We will be asking you a series of

questions. You, of course, are testifying under oath. If you don't understand a question, let us know and we will rephrase the question.

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4 The stenographer is preparing a record of 5 questions and answers. The deposition will be 6 treated as Committee confidential until the 7 commencement of the hearings. Prior to the hearings. 8 you will receive a letter from the Committee telling 9 you that you may come to the Senate to review a copy 10 of your deposition and make note of any corrections 11 for transcription on an errata sheet.

Since you are out of town, we can make arrangements to have that, the transcript, made available to you for your corrections if that is your choice.

If you are called to testify at a public
hearing, you will be permitted to have a copy of your
deposition four days prior to your testimony. You
may be represented by counsel, and I note that you
are appearing without counsel today.

Objections to the form of questions will be noted for the record and counsel may object on the

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grounds of privilege or relevance. The Committee Chairman may rule on objections where the witness refuses to answer a question.

Now, Mr. Brady, did you search to make a determination as to whether or not there were any records or did you review any records prior to testifying today?

A I looked in my own files to see if I had a copy of the statement I gave the Resolution Trust attorneys. I haven't found it. I think I've put it in a box that's in the attic, but anyway, that's the only searching I did.

Q Now, when you say your own files, do you have a file on this issue, or just --

A No, I've just kept a copy of my statement to them that they gave me.

17 Q Would that be the only record that you have 18 with respect to this issue?

A Yes.

Q And did you review records from any other source prior to testifying today?

A Well, as we mentioned earlier, they may

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have shown me something out of their file. 1 2 Apparently they did. 3 When you say "they," you are referring to 0 4 the RTC? 5 Α From Kansas City, from the Resolution 6 Trust. 7 O Resolution Trust Inspector General; 8 correct? 9 Α Yes. They apparently showed me a letter 10 from Beverly Bassett to Hillary Rodham Clinton, but I don't -- I didn't know anything about that letter 11 12 before they showed it to me, and I don't recall what 13 it said now except that it just existed. 14 Have you talked to -- so other than that, 15 the document you were shown by the RTC, have you 16 reviewed any other record in preparation for today's 17 deposition? 18 Α No. 19 0 Have you talked to anyone with respect to 20 the substance of your testimony today? 21 Other than talking with the attorneys from Α the RTC, no. In fact I don't remember exactly when 22 1 it was, but it was about six months ago I'd say. Was it six months ago, or was it May of 2 3 1994? 4 May of '94? I don't think it was that long 5 ago, but May of '95 might be more like it. MR. COLE: Mr. Brady, this is Mr. Cole. Do 6 7 you recall -- we have a copy of the affidavit that 8 you gave to the Resolution Trust Corporation Office 9 of Inspector General in May -- that's dated May 18th, 10 1994. Do you recall whether you had contact with other attorneys representing the RTC subsequent to 11 12 May of 1994 when you gave this affidavit? 13 THE WITNESS: No. The last I saw of them, 14 they were in the library at the office, and I signed 15 a copy of the statement that they had produced on their portable computer and that was the last of it. 16 17 MR. COLE: Thank you. BY MR. GICALE: 18

Okay. Other than those RTC officials, you

have not talked to anyone else about the substance of

A No, that's correct.

your testimony today?

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13 Now, Mr. Brady, when did you or how did you 1 2 first hear of a Madison Guaranty preferred stock 3 request in -- now this is going back to 1985. 4 Ms. Bassett handed me a copy of a request 5 that she had received from the Rose Law Firm, signed 6 by two attorneys there that I did not recognize. I 7 did not know their names. I don't remember it to 8 this day who they were. They were people -- the firm had gotten much larger than when I had been with it 9 10 some years before, and I didn't know these people. 11 But she said at that time that she had seen 12 Hillary at a party. Hillary had told her she was 13 sending a request over for a clearance of this 14 transaction by which Madison would issue some 15 preferred stock. 16 When you said "she said she saw Hillary at 17 a party," who are you referring to? 18 Ms. Bassett. Α 19 0 Beverly Bassett --20 Α Yes. 21 O -- said that she had seen Hillary who, at a 22 party? 14 1 Α Hillary Rodham. 2 Q At a party. And what did she say? 3 That she was sending this request over for approval of the issuance of preferred stock by this 4 5 savings and loan association, which was -- I recall 6 it was the state savings and loan, and therefore 7 under the jurisdiction of the securities commissioner who wore several hats, and one of them had to do with 8 9 domestic savings and loan companies. 10 Q And did she tell you about the conversation 11 that she had with Hillary Rodham -- and you are 12 referring to Hillary Rodham Clinton; correct? 13 Yes. Other than to say that Hillary had indicated she was sending this request for approval 14 over to the department, she didn't say anything more 15 16 about it. 17 Q Did she tell you about this conversation before she handed you a copy of the letter, or was 18 19 it ---

Q So she told you about the conversation as she was handing you the letter?

As she was handing it to me.

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Α

A Yes.

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Q And what did she ask you to do with respect to the letter?

A They had sent over a suggested approval letter, and she wanted me to examine it and make a recommendation about it, as to whether we could approve it and submit it or whether we'd write our own or disapprove it or whatever. And in looking at it, I decided I didn't feel secure in saying the savings and loans -- domestic savings and loans could issue preferred stock since it was not provided for in the statutory framework of their authority.

And I suggested in a memo -- which must be somewhere in the securities department files, I don't know, I didn't keep a copy of it, or don't have one now certainly -- that we submit the whole issue to the Attorney General since in Arkansas, department heads are permitted to rely upon an opinion of an Attorney General, at least until it's overruled by a court, without getting any sort of personal liability for their action.

And I thought that that would -- if the

Attorney General was willing to sign off on this proposition, then it was no skin off my back, but I wasn't going to say that they could do what they were requesting.

Q Now, I'm going to -- since you don't have these letters in front of you, I will read you a portion of the letter, a letter dated April 30th, 1985, and marked for identification as 0000084. It's a letter to Mr. Charles Hanley regarding authorized issuance of a class of preferred stock by Madison Guaranty, a savings and loan chartered under the laws of the state of Arkansas.

And the first paragraph, first sentence

reads as follows: "Dear Mr. Hanley, Madison Guaranty, a savings and loan chartered under the laws of the state of Arkansas, contemplates a capitalization plan whereby it would authorize and issue a class of nonvoting preferred stock which would have preference as to dividends and amounts paid in liquidation."

Now that's the first sentence. Do you recall that?

17 No, that doesn't ring any bell, but that 1 2 was probably what they said. That would have -- he was the chief examiner of the department and did the 3 4 day-to-day supervision of savings and loans. 5 Mr. Hanley was? 6 Yes, and they would have probably addressed Α 7 the letter to him. 8 Now, what were your duties in the 9 department at that time? 10 Well, hard to say really. I was one of the 11 few attorneys around at that point, and whenever any legal points came up, I was generally involved. 12 Although, as I say, it was mostly with regard to 13 14 broker/dealer and securities registration problems. 15 and I did very few savings and loan affairs. And 16 this was one of the very few, and I got it mostly 17 because I guess I was a senior attorney, other than 18 Beverly herself, who was in the department that knew 19 anything about the laws of Arkansas. 20 Was Mr. Hanley an attorney? 21 Α No, he was an accountant. He had been 22 doing that for so many years that he, well, knew the 18 1 thing forward and backward, and he was a pretty good 2 source of information and had a good memory about 3 things that had happened in the department. He was a 4 fairly young fellow, but he had never done anything

5 else, and that had been one of his specialties in the 6 department. 7 All right. Now, I'm going to read to you 8 the third sentence of that first paragraph. 9 All right. 10 0 Which is -- which states the rationale of

11 the -- which starts to state the rationale for the 12 Rose Law Firm's position on the issuance of this 13 stock.

14 It states as follows, "for the reasons 15 stated below we are of the opinion that a state 16 chartered savings and loan may do so. Arkansas 17 Statute 67 section 1864 (1971) provides in part, 18 pertinent part: The Arkansas Business Corporation Act 19 as amended shall be applicable to permanent stock 20 savings and loan associations created or operating 21 under the operations of Act 227 of 1963. And such 22

savings and loan association shall enjoy the same

power and privileges and be subject to the same duties, restrictions and liabilities as other corporations except so far as the same may be limited or enlarged by the provisions of Act 227 of 1963."

1 2

Do you recall that being represented to you in that letter?

A If it were in the letter, I saw it, but I have no independent recollection of that sentence.

Q Well, do you recall, as a result of Ms. Bassett handing you a copy of the letter and the request, examining the sections referred to in the letter, in particular the Business Corporation Act and Act 227 of 1963, in order to conduct your research?

A I'm sure I did and everyone was familiar with those acts as they applied, really. They came up all the time around the office in various contexts.

The thing that I had in mind was, the
Supreme Court had made it very difficult for someone
not specifically covered by the corporate code to
rely on provisions in the corporate code when they

weren't in the laws that specifically addressed their particular chapter of the enactments, because they had all sorts of things.

For example, in insurance they had chapters

specifically for Blue Cross and Blue Shield and for funeral homes and for limited stock companies and just four or five different classes of corporations. Plus you had securities -- I mean the savings and loan provisions, and you had funeral homes were also under the jurisdiction of the securities department. And all of these had some provisions for corporate government governance, I guess you'd say, in their particular section, and the Supreme Court had muddied the waters, as far as I was concerned, with the decision in an insurance company case which made it, I thought, risky to rely upon a general corporate

Q And the case you are referring to was what? A Okay, just a second. It was Bailey versus

Jones, security commissioner, 1967 Arkansas Supreme Court hearing case, which was heard on both direct

appeal and on rehearing petition and appears

code without a specific authorization.

1 primarily I guess at 419 Southwest 2nd 585 in two 2 different Arkansas Reporter citations: 242 Arkansas 3 668 and 243 Arkansas 431.

Q So it was your belief after your review of that case, or based on your familiarity with it, that the request for preferred stock -- for issuance of preferred stock was not appropriate --

8 I recommended that Beverly not put her name down as saying that the statutes authorized that without some sort of further assurance, say in the 10 11 form of the Attorney General's opinion --

So you thought it was --

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-- which I thought would be forthcoming.

Q Now, did you -- strike that.

Initially, what did she ask you to do? Did 15 she just ask you to review this, or did she ask you 16 to give her something in writing? 17

A Well, I think she anticipated that I would simply rubber stamp the opinion that came over with the request or make any corrections that we saw necessary. But I didn't feel, and I explained in a memo to her why I did not feel, that we were secure

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in issuing an opinion saying that -- issuing 1 preferred stock on this tenuous argument they 2 3 advanced in their letter.

Q Now, were you aware at that time whether or not issuance of preferred stock by an Arkansas chartered savings and loan had ever been approved before this request?

I was told that it had not been. I'm sure I discussed it with Mr. Hanley and got the information from him.

11 So when you concluded that you did not 12 agree with the letter of the Rose Law Firm, the 13 request, how did you -- who did you convey your 14 conclusion to?

Back to Ms. Bassett.

And that was in the form of a memorandum? 0

17 Α

Now, did you draw up any letter on her 18 0 19 behalf to the Rose -- either the Rose Law Firm or the 20 bank with respect to your position?

21 Α No.

22 0 Did you discuss this matter with Beverly

Bassett after you submitted the memorandum to her? 1 2 I did not discuss it. She was not happy 3 with my response and made that clear. But as far as 4 I know, that was the end of it. 5 Well, when you say she was not happy with your response, how do you know she was not happy with 6 7 your response? 8 She indicated as much to me. 9 So you had a conversation with her about 0 10 your --11 A I wouldn't call it a conversation, no. 12 Well, what did you say to her and what did 0 13 she say to you? 14 She simply indicated that she was not happy with my handling of that request, and probably along 15 16 with other things, and that was the end of it. 17 Well, what do you mean "along with other things"? 18 19 I don't know. Maybe she didn't like the 20 way I drank my coffee, I don't know. 21 So you submitted the memorandum to her. 22 She reviewed it in your presence I take it? 24 1 Α No. 2 Then she had this conversation with you at 3 some time subsequent to reviewing the memorandum, 4 saying she wasn't happy with your result? 5 Α Yes. 6 O Yes? 7 A Yes. 8 And did she ask you to do anything more on 9 it after she told you she wasn't happy with the way 10 you handled it? 11 Α No 12 Did you discuss your research and your 13 conclusion with Mr. Hanley or Nancy Jones? 14 I'm sure that informally I did. I did not 15 specifically, point by point in the memorandum. 16 defend it or discuss it with either of those two. 17 Well, did you discuss it with Hanley before 18 you submitted it to Beverly Bassett? 19 I don't think I really did. I think I may 20 have told him what I had concluded, but I don't 21 remember specifically doing that either.

Q What was his response when you told him

that that was your conclusion?

A Well, I don't remember telling him that, so I don't know that he ever responded to me exactly.

Q Did you talk to Ms. Jones about your conclusion?

A No, I did not, and I don't remember her being involved in this issue at all.

Q Did you talk to anyone else other than Beverly Bassett about the conclusion you had come to?

A No, I can't remember discussing it with anybody else.

Q Now, I'm going to read you a letter which has been represented to us as being a letter from Beverly Bassett to Hillary Rodham Clinton, dated May 14th, 1985. It's a document marked 000010786. It's also marked as a House document, and I'm going to read you --

A Before you do, may I ask you, is this the same letter that you think the RTC showed me?

Q I believe it may be. It is a copy of the letter that she sent you, although there is some notations on it, but I believe the text of this

letter is what they showed you.

A Okay.

Q I'd like to read it to you to see whether or not you agree with it.

(Discussion off the record.)

BY MR. GICALE:

Q We're back on the record. Now, as I indicated previously, the letter is dated May 14th, 1985 and states as follows: "Dear Hillary, I have reviewed your letter of April 30th, 1985 regarding the proposed authorization and issuance by Madison of a class of nonvoting preferred stock.

"I agree with your analysis and conclusion of the question whether an Arkansas chartered savings and loan association may under Arkansas law create, authorize and issue a class of preferred stock.

17 Arkansas law expressly gives state chartered

18 associations all the powers given regular business

19 corporations under the Arkansas Business Corporation

20 Act including the power to authorize and issue

21 preferred stock.22 "Furthe

"Further, there is no express prohibition

against such action contained in the Arkansas laws governing building and loan, and savings and loan associations.

"Accordingly, as the savings and loan supervisor, I concur in your opinion that Madison's proposed capitalization plan is not inconsistent with Arkansas law."

Now, is that the letter that you recall being shown to you by the RTC Inspector General?

I think it is. I didn't memorize the specific wording of the letter that they showed me, but that sounds that it was, to that same end anyway certainly.

Now, did you -- does your memorandum -- was 0 your memorandum consistent with this letter?

16 Α No.

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17 O Did you ever -- did you draft this letter?

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19 O For Beverly Bassett?

20 Α No.

21 0 Is this, the statement that states as

22 follows: "I agree with your analysis and conclusion

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that an Arkansas chartered savings and loan association may under Arkansas law create, authorize and issue a class of preferred stock," is that contrary to the opinion that you expressed in your memorandum to Beverly Bassett regarding this request?

In the sense that she says so with great assurance and I was not at all that sure, and that's why I requested that the matter be referred to the Attorney General's office for their opinion on the issue. I would not have made that statement, no.

And once again you did not prepare that letter for Beverly Bassett?

No. Someone on the staff may have. And it sounds like a typical department letter in response to some inquiry that, you know, we would say something along those lines. Ms. Jones or Mr. Hanley or someone like that could have drafted that letter.

18 I don't know.

> But they did not do that at your request; 0 correct?

21 A No. Only Ms. Bassett could have made that 22 request.

When you say "made that request," you mean 1 2 responded? 3 Well ---A 4

Oh, I'm sorry. You mean the request for 0 vou to --

Requesting for someone to draft that A statement. She didn't do it herself. I think she could have done it herself and probably did, but if she had somebody else do it, she would have been the one making the request.

Do you ever remember any discussion with Charles Hanley about the use of the wild card provision of the Savings and Loan Act to allow for this preferred stock?

The wild card provision? You are referring to something that allowed them to have a certain percentage of assets not otherwise authorized by the statute. Is that --

That's not what I'm referring to, but I am asking the general question, was a wild card provision of the Savings and Loan Act referred to by

Mr. Hanley as a possible --

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Well, that's what I was trying to clarify. The only wild card provision that I remember ever discussing with anyone in the department about savings and loan had to do with the statutory provision allowing for certain assets to be acquired up to certain amounts and so forth and then there was a wild card provision to cover a small percentage, I've forgotten the percentage, but a small percentage of the total assets not otherwise specified or in excess of that specification. And that's the only wild card provision I would be familiar with. O Now, Mr. Brady, I'm going to represent to

you that in a statement of Beverly Bassett-Schaffer, she has indicated that in paragraph -- the second full paragraph of a statement she gave, dated April 14th, 1994, she stated as follows --

MR. COLE: Let's just note for the record that this is a statement she provided to the Resolution Trust Corporation Inspector General's office; is that correct, Mr. Gicale?

BY MR. GICALE:

I believe that's the case. It's marked for O

identification as 0000084. In that statement, the 1 2 second full paragraph, she stated the following: "I referred the matter to the ASD staff attorney, Bill 3 4 Brady, asking him to draft a letter to Hillary 5 Clinton concerning this matter." 6 Is that statement true, Mr. Brady? 7 Well, as I believe it's consistent with 8 what I said at the beginning, that she gave me the 9 request and asked me to handle it. 10 Did she ask you to draft a letter to 11 Hillary Clinton concerning this matter? Draft, not specifically to Hillary, or more 12 properly I would think to the corporation, but --13 Did she ask you to draft a letter? 14 15 Α She never asked me to draft a letter, no. 16 What she did was hand me their request and ask me to 17 look at it and give her my opinion on it. And 18 normally that would have been, if the thing had been 19 acceptable, would simply have been to say yes, I 20 think we can issue you the requested letter clearing 21 the provision. 22 She goes on to say that "he drafted a 32 1 letter which I revised somewhat, signed and sent to Hillary Clinton." Is that statement correct as you 2 3 recollect it? I don't -- as I say, I don't know who 4 5 drafted the letter you read me that she did send. 6 That was not my letter, and she may have forgotten who drafted it or who formulated the letter, but no, 7 it was not my draft that she revised and sent on. 8 You did not draft a letter? 9 Q 10 Α No. May I explain just a minute? Go ahead. 11 0 12 You've got to understand that she signed -her name was put to hundreds of opinion letters every 13 day or every week. She certainly didn't do that many 14 every day. But every week opinion letters went out, 15 approving letters went out over the signature or over 16 the name anyway of the commissioner, and so she 17 wouldn't necessarily be familiar some years afterward 18 with any particular opinion. 19

O I understand. But, just so as to be clear,

A I did not draft a letter. Someone else

you didn't draft a letter for her?

20 21

1 could have, as I indicated.

Q Well, in any event the letter that I read to you, the paragraphs that I read to you earlier were not consistent with the memorandum that you submitted to her?

A No, I would not have drafted that letter.

Q And the letter was not consistent with the memorandum that you submitted to her; correct?

A That's correct.

Q I don't recall whether you stated this before, but was Nancy Jones an attorney?

A No. She was an accountant. I think she had her CPA license. Several people around the office were CPAs. She was not -- she was a very bright girl, and she knew all the language and so forth and had been doing broker/dealer registration for some time, and was very conversant with many of the securities issues involved and the department's regulations.

Q Did you have any other conversation with Beverly Bassett after your conversation with her with respect to your conclusions in this memorandum?

A I'm sure that there was some -- well, there were conversations but not about Madison, no.

Q And I meant to say about Madison.

A No.

Q Did you have any other responsibility for any issues arising at Madison Guaranty?

A No, that was the only time I had anything to do with Madison.

Q During this time period, or any time before or subsequent, did you talk to anyone directly at Madison or the Rose Law Firm about this request?

A No, neither. I talked to no one at Madison nor at the Rose Firm.

Q Did you talk to Jim McDougal?

A No. Now, I know McDougal, and I've seen him both before and after this incident, but not very often. But no, I never -- you've got to understand. McDougal wasn't competent to talk about things like

19 that. You wouldn't have bothered to talk to him

20 about that.

Q He wasn't competent to talk about things like that?

35 1 That's what I'm saying. A 2 What was your relationship with McDougal 3 when you say you knew him? 4 I just knew him socially. I'd met him at parties and that sort of thing. I knew who he was. 5 I'd seen him around the state capital when he was 6 7 helping as adviser to some of the legislative sessions. 8 9 0 Is he someone that you saw on a frequent 10 basis? 11 No Α Would you have had occasion to call him at 12 0 13 his office? Never. 14 Α 15 0 Or his home? 16 No. But later on we did live, perhaps even in the same -- I'm not sure. We lived in the Riviera 17 18 Apartments in Little Rock for a while, and his mother lived there, I was told, and his cars were often 19 20 parked there. And I don't remember that I ever saw him around the building, but his cars were there as 21 22 evidence that he was on the premises, you know. But 36 1 that was, I'm pretty sure that was after the time 2 that I was with the securities department. Now, you left the securities department how 3 long after this incident in 1985? 4 5 What are the dates on those letters? 6 May of 1985 was the date of the letter to 0 7 Hillary Clinton. Well, April of '86 was when I went into the 8 9 securities department. When in '86? 10 Q 11 Α April. 12 And why did you leave at that time? 0 Oh, I had just been there long enough and 13 several commissioners had come and gone, and the ones 14 who had heard of me or that I'd been on best terms 15 16 with were not there, and so I just left. 17 Now, since offering this advice to Beverly Bassett, have you had any other conversations with 18 her with respect to this matter? 19 20 No. And as a matter of fact, I haven't

even seen her since I left the department. I've seen

her husband, I know him, but --

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1 O How well do you know her husband? 2

Α Socially.

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0 How frequently do you see him?

Oh, I used to see him fairly frequently

because we had post office boxes in the downtown post 5

6 office, and he'd be in there picking up his mail, and 7

I'd see him just to say hello. But other than that,

8 I haven't seen him, and I haven't seen him in 9 probably 10 years.

> Did you ever talk to him about this issue? Q

11 Α Oh. no.

0 Have you talked to --

13 A They weren't even married then.

Have you talked to Mr. Hanley or Nancy 0

15 Jones about this issue since that time?

16 No, I haven't. I think I started to call Nancy when they first started nosing around, from the 17 18 federal -- what do you call it?

> The RTC? 0

20 RTC, the Resolution Trust, and find out if she knew where files were and anything like that, but 21 22 I didn't even do that, I didn't follow up on that.

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So have you talked to anybody about this issue, other than the RTC investigators, since you wrote this memorandum to Beverly Bassett in 1985?

No. The whole issue wasn't that big a deal at the time, and I wouldn't have -- I mean nobody would have known what I was talking about.

So that the only time that this came up again was when you gave this statement to the RTC Inspector General: is that correct?

Α Yes.

And the statement, and I'm going to represent to you that the one we have is dated May 18th, 1994 -- off the record for a second.

(Discussion off the record.)

BY MR. GICALE:

O The statement that we have before us reads as follows. It's labeled "Affidavit, Resolution Trust Corporation, Office of Inspector General, Office of Investigation. Date: May 18th, 1994.

20 City/State Jonesboro, Arkansas.

> "I, William B. Brady, 1909 West Nettleton Avenue, Jonesboro, Arkansas, having been duty" -- it

- 1 says duty, d-u-t-y, "sworn by Philip H. Sprague who
- 2 has identified himself as a special agent with the
- 3 Resolution Trust Corporation/Office of Inspector
- 4 General, having asked me to respond to questions
- 5 concerning my work at the Arkansas Securities
- 6 Department (ASD) Little Rock, Arkansas and the Rose
- 7 Law Firm, hereby solemnly swear to the following

8 voluntary statement.

- 9 "I began my employment at the ASD during 10 1979 as a staff attorney principally assigned to the
- 10 1979 as a staff attorney principally assigned to the 11 broker/dealer area. I remember Beverly Bassett, the
- 12 commissioner of ASD, giving me a Rose Law Firm letter
- 12 commissioner of ASD, giving me a Rose Law Fifth letter
- 13 dated April 30th, 1985. Beverly Bassett informed me
- 14 that she had seen Hillary Clinton at a social
- 15 function, and Hillary Clinton informed her that the
- 16 Rose Law Firm was sending a letter to ASD concerning
- 17 the issuance of preferred stock by Madison Guaranty
- 18 Savings & Loan. Bassett subsequently gave me the
- 19 Rose Law Firm letter and instructed me to write an
- 20 approval letter.
- 21 "In researching this issue, I relied on my
- 22 past experience as an in-house counsel at an Arkansas

- 1 insurance company. While employed with the insurance
- 2 company, I was involved in a case concerning the
- 3 issue of corporate powers of those corporations not
- 4 under the Arkansas corporate code. This case went to
- 5 the Arkansas Supreme Court.
- 6 "Based on my experience with this case,
 7 the more I looked into the Rose Law Firm reques
- the more I looked into the Rose Law Firm request
- 8 concerning the issuance of preferred stock by Madison
- 9 Guaranty Savings & Loan, the less I supported the
- 10 position presented in the Rose Law Firm letter, dated
- 11 April 30th, 1985.
- "My research revealed that the issuance ofpreferred stock by an Arkansas chartered savings and
- loan had never been approved before this request. I
- 15 specifically remember that I prepared a memorandum to
- 16 Beverly Bassett regarding the request from the Rose
- 17 Law Firm.
- 18 "In my memorandum, I stated that I did not 19 agree with the Rose Law Firm interpretation of the
- 20 Arkansas statute. Bassett did not agree with my
- 21 opinion as expressed in the memorandum. Following
- 22 the submission of my memorandum, I had nothing else

to do with the ASD handling of the request from theRose Law Firm.

"I have reviewed the May 14th, 1985 letter
by Beverly Bassett to Hillary Rodham Clinton. I did
not draft this letter. I am certain that I did not

6 draft the letter because the letter states, 'I agree

7 with your analysis and conclusion that an Arkansas

8 chartered savings and loan association may under

9 Arkansas law create, authorize, and issue a class of

10 preferred stock.' This statement was and is contrary

11 to the opinion that I expressed in my memorandum to

12 Bassett regarding the Rose Law Firm request.

"During the time that the Rose Law Firm request was pending at ASD, I do not remember any pressure being exerted on ASD due to Hillary Clinton's position as the governor's wife. Hillary

17 Clinton's position as the governor's wife was never 18 an issue. I do not recall Hillary Clinton ever being

19 at the ASD offices.

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20 "It was not unusual for people dealing 21 with ASD on preferred stock issues to, quote, 'drop' 22 names of influential people with what I would

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describe as an attempt to influence a decision. I
know of no instance when 'name dropping' influenced a
decision.

"During my tenure with ASD, I never had
anything to do with the issue of Madison Guaranty
Savings & Loan's request to engage in brokerage
activities.

8 "I was once an associate of the Rose Law 9 Firm for about two or three years during the period 10 of 1961 to 1963.

"I have read the foregoing statement consisting of two pages. The statement is true and accurate to the best of my knowledge and belief. I have initialed each page and all corrections."

And there's a place for your signature,

Mr. Brady. The statement that I just read to you, is
that a true and accurate reflection and to the best
of your knowledge and belief the facts as you --

A Yes, I made virtually the same statement today. Some of the adjectives in there were theirs, not mine, but they do not essentially change --

Q Okay. Which adjectives would you change?

1	A Oh, let's see. I don't even know where to
2	tell you to read the paragraph again. There was one
3	or two that struck me as being a little stronger than
4	I might have said, but anyway, they didn't amount to
5	anything.
6	Q Have you spoken to anyone from the Rose Law
7	Firm about this issue?
8	A No.
9	Q Have you spoken to anyone from the White
0	House about this issue?
1	A No.
2	Q Or any representative of the President or
3	his wife?
4	A No.
5	MR. GICALE: I have nothing further at this
6	point.
7	EXAMINATION
8	BY MR. COLE:
9	Q Mr. Brady, this is Lance Cole. I'd like to
0	ask you a few additional questions, if I could, sir.
1	A All right.
2	Q Going back to your first discussion with
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1	Ms. Bassett-Schaffer when she gave to you a letter
2	from the Rose Law Firm. I heard you to say that the
3	letter was signed by two attorneys at the Rose Law
4	Firm whose names you did not recognize. Is that your
5	recollection?
6	A Yes, it is. Now, whether they signed the
7	cover letter I do not know, but some place in it
8	there was an indication that it came from their
9	corporate department, and two people's names, my
0	recollection were on the were in the letter
1	someplace, indicating that they had prepared it. I
2	don't know whether they signed it or not.
3	Q Let me tell you the source of my confusion
4	on that point. The letter that we have, which is
5	dated April 30th, 1985, addressed to Mr. Hanley, and
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	Mr. Gicale read you a good portion of that letter, is
7	signed Rose Law Firm but the last sentence of the
7	signed Rose Law Firm but the last sentence of the letter on page 2 says, "should you require further
7 8 9	signed Rose Law Firm but the last sentence of the letter on page 2 says, "should you require further information or assistance, please advise Hillary
7	signed Rose Law Firm but the last sentence of the letter on page 2 says, "should you require further

the names that you referred to, because I would have

1 expected that you would have recognized --

A I did not know Massey. I of course knew who Hillary was, and I'm not -- those may have been the two names. I just remembered them coming from people whom I did not regard as corporate authorities in the firm.

Q I see. So it's possible that these were the two names that you were referring to --

A Could have been.

Q -- in your initial testimony. And do you have any knowledge that any other attorney from the Rose Law Firm, other than Ms. Clinton or Mr. Massey, worked on this matter?

A I have no knowledge of it. Unless it appeared someplace in the accompanying material that they sent over. They sent a draft, for example, of proposed -- the letter they wanted the department to issue. They went into more detail than I think you all read earlier. And whether that was just a cover letter to their memorandum of law, I don't know. I don't have any of the file before me and I couldn't tell you.

Q I understand and of course we only have what we've been provided by third parties, but this letter appears to stand on its own. It includes legal analysis. Do you recall that a form of approval letter was in the package that you were provided?

A Yes.

Q So your recollection is that the Rose Law Firm had prepared a form of approval letter, and that was something that was given to you?

A That's standard practice, people sending in requests for approval letters to draft their own version of it.

Q Do you have any knowledge as to whether the other letter that Mr. Gicale read to you, that would be the letter dated May 14th, 1985 that went out over Ms. Bassett's signature to Hillary Rodham Clinton at the Rose Law Firm, could have been an executed version of the form of approval letter that the Rose Law Firm had submitted?

A I don't think it was. It sounded too much like a form response that the department used to

make, and I don't think it is the letter that they 1 2 submitted. It was more personal and so forth. O Going back to your initial discussion, and 3 I'll refer to her as Ms. Bassett. That was her name 4 5 at the time, correct? 6 A She wasn't married then. 7 What did she say to you regarding the O discussion that she had had with Ms. Clinton at the 8 9 party? 10 Just that she had had one and it had been 11 indicated to her that requests for department 12 approval were coming over. 13 And did she indicate to you that this request should be given any special treatment because 14 it was coming from Ms. Clinton? 15 No. She made no indication that because 16 17 the governor's wife had asked for it that we should do it, no, if that's what you are asking. 18 Yes, that's exactly what I'm asking. 19 0 It was I saw X, Y and Z who represents 20 Merrill, Lynch, Pierce and they said they were 21 requesting, you know, and here is the material, and 22 48 1 see if we can do that or whatever. 2 And did you feel that you were expected to 3 treat this in any way different than the normal 4 processing of this kind of request as a result of your discussion with Ms. Bassett? 5 6 Well, no, I did not. And if I had felt 7 under any compulsion at all, I probably wouldn't have 8 done it, but I certainly -- because if you look at the memorandum I wrote, I did not agree with it. 9 Right. I would assume that that's pretty 10 strong evidence that you were not giving this 11 12 particular application any special treatment, if I'm 13 understanding what you did correctly? Well, I think you're correct. 14 15 Unfortunately, we haven't located a copy of that memorandum, at least to the best of my 16 17 knowledge. 18 MR. COLE: Do you have a copy of it, 19 Mr. Gicale? MR. GICALE: No. 20 21 THE WITNESS: As far as I know, it may not

exist. It may have made the wastepaper basket in

1 Beverly's office is about as far as it might have 2 gone.

BY MR. COLE:

Now, you indicated that you were obviously an attorney, but that Ms. Jones and Mr. Hanley were not attorneys on the staff of the securities department; is that correct?

That's correct. Α

0 Other than yourself and Ms. Bassett -- who was an attorney at that time; correct?

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0 Were there any other attorneys on the

13 staff?

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From time to time there were a couple of others. Jim Pitts, who now resides in Washington and is with the controller of the currency, I think, or that's what he went up there to be. I assume he's still with them, was kind of the chief legal attorney for the department when I got there, and left.

We had moved several times, the offices of the department had moved several times and the time I'm talking about we were down on Markham Street in

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1 Little Rock, having moved from the Capitol grounds. 2

And at that time the attorney who is now up here in

3 Jonesboro -- in fact, Jim Burton came on board for a

short while, and it's kind of a political patronage 4

5 appointment, and real nice fellow. And he later came

6 back to Jonesboro to be city attorney and has

something to do with the Democratic party here in

8 this county.

> And there may have been one or two others, but I really don't remember who they were. If I were going down the department list of personnel I could tell you, but none of them stayed around very long.

But focusing on the period late April and early May 1985 when this request was submitted, were you and Ms. Bassett the only two attorneys on the staff at that time? And the reason I'm asking the question --

I just don't know. It seems to me we were, but I don't know. There could have been somebody else technically on the staff or filling the position that wasn't there every day. I just don't know.

But my purpose in asking the question is in O

1 understanding why Ms. Bassett may have asked you to

2 become involved in this when the letter from the Rose

3 Law Firm was directed to Mr. Hanley. Am I correct in

understanding that that may have been because you 4 5

were an attorney and this presented a legal issue?

I would assume, but I, of course, don't 6 7 know.

> And you --0

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Actually, Hanley's procedure in cases like 9 10 that, when he was asked to render what he considered legal, take a legal position or render a legal 11 opinion, would be to refer it to the legal staff. 12

And at the time the legal staff was vourself?

As far as I know, yes. A

15 And you explained for Mr. Gicale, and I 16 won't ask you to repeat it, your analysis of the 17 18 issue that was presented in terms of the power to 19 issue or the authority to issue this preferred stock and the concerns that you had. Am I correct that 20 your recollection is that you explained that in the 21

memorandum that you submitted to Ms. Bassett? 22

1 I would hope that I undertook to do so, 2 yes.

And although I believe you testified that 3 4 you did not discuss the memorandum in detail with Ms. Bassett, it was your understanding that she had 5 received and read the memorandum; is that correct?

Ultimately, yes.

8 And did Ms. Bassett, as an attorney and the 9 head of the department, if she agreed with the 10 analysis of the Rose Law Firm and did not agree with your analysis, did she have the authority to send out 11 this letter and approve the proposal without going to 12 13 the Attorney General as you had recommended? 14

Yes. Actually she could have done anything she wanted, you know, and she chose to issue that letter I take it.

Q And what you were recommending was to seek 17 advice because you thought that this was a closer 18 19 question than --

20 Well, it was certainly a novel question. A question of first impression and why should we stick 21 our necks out, you know, for McDougal. 22

Q And so your recommendation was to get an opinion from the Attorney General which would have supported the department if the opinion was favorable?

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A Whatever the Attorney General said, we would have been supported by the opinion if we did what he said, you know, which I anticipated would be the same, no, you can't do it. But they were asking, so I don't know what was --

Q The Rose Law Firm, I take it, had represented clients before the securities department at other times in your experience there; is that correct?

A I'm sure they did, but I have no specific recollection of a client that they would have. Now, the bank department had been split out from the securities department by that time, and so we no longer would have met them as representing any banks, but I think Joe Jirard, who had done a lot of

19 but I think Joe Jirard, who had done a lot of 20 securities work with the firm, had left and was on

20 securities work with the firm, had left and was on 21 his own at this time and so I don't know how much

22 work they did with the department. I would say not

as much probably as they had done in previous years.

Q Had you been involved in matters, while at the department, in which the Rose Law Firm was representing parties other than the one we've been discussing today?

6 I'm sure I may have, but I really don't 7 specifically -- none come to mind, but I'm sure that they must have been on some other things that came 8 9 across my desk. There were only about three or four large law firms in Little Rock at that time and very 10 few of them had many securities matters. Some of 11 12 them had savings and loan matters, that sort of thing. I just don't know, you know, what it would 13 14 have been. I can't say they didn't. And I don't 15 have any specific recollection of any dealings with any of them. 16

Q And the fact that you had been employed by the Rose Law Firm a long time previously, some I guess 20 years previously, was not a factor that would have affected whether or not you would have been comfortable handling matters that the Rose Law Firm was submitting to the securities department, no conflict or --

1 2 No conflict. Nothing that I did back there 3 when I was with the firm and that sort of thing. I was trying to think. The only -- I think the closest 4 I had connections with the law firm while I was 5 there -- Nancy Jones had some questions about the 6 uniform securities what do you call it, not the 7 uniform -- the uniform gift to minors that was 8 9 modified and some broker/dealer in town questioned 10 how that affected the holding of stocks or the building of stocks, something of the sort, by

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minors. Phil Carol at the Rose Firm -- by the way, 12

13 it's always been called the Rose Firm even when it

14 was Rose, Meek, House, Barron, Nash & Williamson 15

before.

16 But anyway, he was on the American Bar 17 Association committee that was trying to get it passed in Arkansas legislature, and we put some of 18 19 those questions that the broker/dealer had to him and 20 decided there was no conflict, no problem with the 21 act. I mean, that sort of thing would come up from 22 time to time, but not specifically problems.

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1 My only question went to whether your prior 2 association with the Rose Firm affected your ability 3 to be involved in matters --

A No.

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O -- that also involved them before the 5 6 department. 7

No, I felt no restriction because nothing, as I say, came up that indicated in any way that it was one of my former clients.

O And do you know whether Ms. Bassett 10 consulted with others in the department after she 11 received your memorandum and before she signed the 12 13 letter of May 14th, 1985?

A I have no recollection of anyone saying anything at all about it to indicate that she had said anything to them about it or asked their advice or anything, you know. No, I don't know what she did other than you have read me in the letter she 19 ultimately sent.

As I understand your recollection of the events that you've testified to here, essentially Ms. Bassett did not take the recommendation that you 1 gave to her in your memorandum.

Were there other instances, during your
employment, while she was the securities department
head that she did not take your advice on matters
involving securities law issues?

A I can't remember any. Normally, I think

A I can't remember any. Normally, I think the department presented a pretty unified front in the interpretation of securities laws and regulations and that sort of thing. I don't remember anything that any of us violently disagreed with.

Q Well, you indicated near the close of your testimony that this was not a big deal at the time, and this I think is a reference to the matter that we've been discussing. What did you mean by that?

A Well, it was pretty low key. They sent over a request. Even after we said yes, nothing happened. As far as I know they never utilized that opinion as backup or anything for issuing that kind of stock, and what I read in the papers, they never did. But it was just another -- we turned down or answered or approved requests every day on bond issues and that sort of thing, and this was just

another request as far as I was concerned.

Well, going to the issue that a lot of people are most interested in with respect to this issue, I'd like to go back to your affidavit, and Mr. Gicale had read the entire thing to you. I'd like to focus on the second full paragraph on page 2 where you say, "during the time that the Rose Law Firm request was pending at the Arkansas Securities Department, I do not remember any pressure being exerted on Arkansas Securities Department due to Hillary Clinton's position as the governor's wife."

And I believe you indicated that that correctly stated your current recollection of events; is that correct?

A Yes.

Q And you also stated that Hillary Clinton's position as the governor's wife was never an issue.

So it's your recollection that at the time this was considered, at least in terms of what you perceived, the fact that the governor's wife was involved in this legal matter did not influence its handling by the securities department to the best of

your knowledge.

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A To the best of my knowledge, that's correct. Let me add this, if I might. I think everybody in the department knew that Madison was not the strongest financial institution in the state, and that they might be having troubles, and we sympathized somewhat with their attempts to strengthen their financial position.

But on the other hand, I at least did not think that we ought to permit them to do things that would later turn out to be beyond their corporate powers to do, you know. That would involve --

MR. GICALE: Can you repeat the last part of that, the stenographer could not --

THE WITNESS: Well, that would have gotten the department in more difficulty, if we'd allowed them to do something that was illegal, than if we had called their hand and not allowed them to raise additional capital.

BY MR. COLE:

Q Bear with me for a moment. I'm looking for a document here.

Do you recall whether there was any discussion within the department as to whether Madison had the authority to issue this preferred stock without even seeking the approval of the department?

A No. I never heard that question discussed, no. Which also would indicate, I think, that they -- someone else had raised the problem, perhaps some underwriter, stock underwriter or someone who would be handling the issue as to whether they had authority to do it. Normally if you have the authority and the authorization to do it, you'd simply do it and notify the department. This was something I think everyone recognized as a novel question.

Q You also indicated in your -- in the May 18th, 1994 affidavit that you provided to the Resolution Trust Corporation, that you don't recall Hillary Clinton ever being at the Arkansas Securities Department offices; is that correct?

A That is correct.

Q Is the only time, to your recollection,

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that Hillary Clinton's name came up with this matter was when Ms. Bassett handed you the letter or handed you the letter and told you she had seen Ms. Clinton at a party?

> Α Yes

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0 And so there was no subsequent discussion of Ms. Clinton or her involvement in this matter after that discussion with Ms. Bassett: is that correct?

10 No. Well, I lost track of it. What I'm Α saying is, nothing further was said about 12 Ms. Clinton, Ms. Rodham Clinton, whatever, after I 13 got the letter. In fact I was surprised that a 14 senior partner in the firm was even bothering with 15 this request.

Are you aware of anyone from Madison or any of the companies affiliated with Madison having used Ms. Clinton's or Ms. Rodham Clinton's name in discussions with the department about this matter?

20 As far as I know this is the only incident 21 in which I was involved, while I was with the 22

securities department, that involved Madison or any

of its subsidiaries.

2 Yes, and what I was really getting at was 3 whether, with respect to this particular matter. That is the proposal to issue preferred stock, and 4 I'm going back to your affidavit where you said it 5 was not unusual for people dealing -- I'll quote. 6 "It was not unusual for people dealing with the 7 Arkansas Securities Department on preferred stock 8 9 issues to 'drop' names of influential people with 10 what I would describe as an attempt to influence a decision. I know of no instance when name dropping 11 12 influenced a decision."

I just wanted to confirm that that included this matter where Ms. Clinton was involved?

Yes, and I would not restrict it to matters 15 of preferred stock since preferred stock didn't come 16 17 up very often. If they restricted my statement in there, the Federal Resolution Trust statement to the 18 word "stock," I would say no, it went further than 19 that. Any kind of securities position, people were 20 always telling us that they knew so-and-so who bought 21 22 so many tickets to the, you know, or who donated so

much money to the campaign and we never paid any attention.

Q And so no one told you in this instance that you should approve this because the governor's wife was involved?

A No, certainly not.

MR. COLE: I don't have anything further. MR. GICALE: I have a few more questions,

Mr. Brady.

EXAMINATION

BY MR. GICALE:

Q One of the things that you said to Mr. Cole was that everyone in the department knew that Madison was not the strongest institution in the state.

When you made that statement, how common was the knowledge and how was it that everybody knew the status of Madison's financial condition?

A Well, I can't say that -- perhaps it's an overstatement to say that everybody knew, but anyone who paid any attention to Madison or any of the things that they were undertaking would know that that was not really the soundest financial

1 institution in the state.

Q Well, how -- for instance, how did it come up in your discussions in your department that you were a party to?

A Well, we simply knew that the reason they were trying to issue the preferred stock was to increase the capitalization of the company to support their operation, and that they were not generating any profit from their operation.

Q Did you have that discussion with

Ms. Bassett or Mr. Hanley?

A Not specifically. I might have known it from, I might have had it with Hanley. I didn't have it with Ms. Bassett, no.

Q Well, did you obtain that information from monthly or quarterly reports that Madison submitted to the department?

A No, no. All you had to do was look at their advertising, look who was running the company. You knew that McDougal was no manager. You know, just common knowledge.

Q So when you talk about common knowledge,

- 1 you are talking about common knowledge even outside 2 the securities department? 3 Outside the department. 4 0 There was not a great deal of faith in 5 McDougal in the community then; is that correct? 6 There was some concern about his management of that 7 bank? 8 A Well, all I can tell you is that I used to 9 joke with people that I thought I'd go over to Madison and take out a big loan so when it came time 10 11 to pay back they'd be in receivership. 12 And when you would make that kind of a joke 13 or statement, people understood or there was general 14 understanding about the condition of that bank at that point in time? 15 16 I would say so. 17 So your earlier statement had nothing to do with any particular knowledge that you had within the 18 19 department but more common knowledge on the street? 20 A No. 21 0 Or was it a combination of both? 22 Combination of street knowledge and 66 1 knowledge of the people involved and just other 2 people's concurrence in my estimation of the 3 situation. 4 And when you say the people involved, is 5 there someone other than McDougal that you had concerns about? 6 7 No. Well, the fact that Ms. McDougal --Α 8 the then Ms. McDougal's brothers were involved. 9 You are speaking of the Henley brothers? 0 10 Yes. A 11 And was it because of this knowledge that 12 you had in the community and knowledge you acquired through the department that you were especially 13 14 sensitive to this request for preferred stock? 15 The fact that they needed the money, I 16 didn't dispute that, you know, but how they were going to raise it was somewhat a matter of concern 17 particularly as it would involve the Ultra Vires Act 18 19 and they would use that to defend when it came time
- 21 Okay. But did your concerns about the 22 condition of the bank, is that another reason why you

to pay off.

were cautious in terms of your approach and --

A I certainly felt the department ought to be cautious and not put its name on something that might later turn out to be highly controversial.

Q Well, earlier, a quote in your testimony was, you did not see why the department should stick their necks out for McDougal?

A That's right.

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Q And was that based, that quote based on your concerns at that time for the viability of that bank and making a recommendation or conclusion -- agreeing with this recommendation for preferred stock and putting the department in a bad position or bad light, was that your concern at the time?

A It was one of the concerns, yes. You have to realize, for example, about this time those Washington power bonds were found to be ultra vires, remember that. Washington state, the contracts to build -- the bonds issued to build the nuclear power stations out there, the major underwriters in the country had signed on to that and the courts threw it

what was it, Western Power Authority or something, one of the federal cases, and I could see us getting involved in a situation along those lines, yes.

out. At least three I think were in trouble. And

Q Now, did you know that Beverly Bassett had previously represented Madison prior to coming to the securities department?

A No. I knew that she had been with, what is it, I don't even remember what the name of the firm was now, Mitchell --

Q The Mitchell firm?

A Well, yeah, you could call it the Mitchell firm. There are so many names in it now. But I remember that she had been a member of that firm. When I asked people what she had done over there, securities work was not one of the things they mentioned, and I really didn't have any idea that they had ever represented McDougal on anything. No, I did not know that.

- Q McDougal or Madison Guaranty; correct?
- A Correct.
- Q Now, two more questions. At one point in time when Mr. Cole asked you about Beverly Bassett

1 reviewing your memorandum, you said something like 2 "ultimately I believe she did and she got back to 3 me." Was there some delay between the time that you 4 gave this to her, a long delay between the time --5 A Wait a minute. What did I say? 6 Q You responded by saying, ultimately yes, 7 she did review it or she looked at it, the 8 memorandum. Was there some kind of delay between, a long delay between the time that you gave her a 9 10 response and the time that she gave, she responded to 11 you about your conclusions? 12 Actually nothing was said about the 13 conclusions, my memo or her ultimate disposition of 14 the file for, as far as I knew, a long time. I did 15 not know that she had ever formally closed the file with that approval letter. 16 17 0 Okav. 18 So I guess the answer would be, there was a 19 long delay before she got back. 20 Do you know how long it was before she got 0 21 back to you? 22 A Yes. How long, I don't remember, but 70 obviously it was months, I think, before anything 1 2 more was said about it. 3 Do you know how it came up or why it came 4 up? 5 Why it came up later? 6 Yes. 0 7 Α No. 8 Q Now, earlier you also referred to an 9 individual by the name of Jim Pitts who is now 10 working for the controller of the currency. Have you had any discussions with him about this matter? 11 12 No. I haven't seen Jim in, oh, 10 or 15 13 years, I guess. 14 MR. COLE: And I thought I understood 15 Mr. Brady to testify that Mr. Pitts was not working in the department at the time this matter was being 16 17 handled. Is that correct, Mr. Brady? 18 THE WITNESS: He had long since gone. 19 MR. GICALE: I have nothing further. 20 **EXAMINATION** 21 BY MR. COLE: 22 I just have one final brief area of

71 inquiry, Mr. Brady. 1 2 Α Okay. 3 I believe you testified that you left the 0 4 securities department in April 1986; is that correct? 5 Yes. 6 And was Ms. Bassett still the head of the 0 7 department at that time? 8 Yes. Α 9 Did she ask you to leave, or did you leave O at your own initiative? 10 11 Oh, I think we both decided the time had 12 come for me to move on. I'd been there quite a 13 little while, and there was actually not that many openings above, you know, base salary. We just 14 decided that it was time for me to go. 15 Did she indicate any dissatisfaction with 16 17 your work while you were with the department? 18 No. As I indicated, she didn't like the way I'd handled this request, but --19 Did she bring that up at the time you left 20 21 the department? 22 A I'm sure that's when it came up. 72 1 Were there other matters that came up at 2 that time? 3 None that spring particularly to mind. I 4 think she just generally not happy with me and I wasn't happy with her and it was fine with both of 5 6 us. 7 I'm pausing because I want to choose my 8 words carefully here. But did you and Ms. Bassett have difficulty getting along on a personal level? 9 10 Yes and no. I was there for what, about a 11 year or so while she was commissioner. 12 I'm not sure exactly when she became commissioner. 13 I don't either. I can't remember. I 14 15 certainly had more pleasant relations with the other commissioners and remember them more fondly than I do 16 with Beverly, but she didn't see me probably at my 17 18 best either. I don't know. I was getting 19 dissatisfied with the work there and so forth. 20 And finally just to conclude, you indicated

that you didn't know for some period of time that she

had issued the letter in May approving the preferred

1	stock issuance; is that correct?	
2	A Until and I guess the first I knew of it	
3	was when the Resolution Trust attorney showed it to	
4	me. I'm sure that's the one they showed me.	
5	Q So we have documents here, and I'm not	
6	going to take the time to read them into the record,	
7	indicating subsequent correspondence relating to the	
8	preferred stock proposal with the Rose Law Firm,	
9	directed to Mr. Hanley, and perhaps others. I would	
10	have to go through the file. You were not aware of	
11	any of that correspondence at the time?	
12	A No.	
13	Q So essentially you had no further	
14	involvement in this matter after the memorandum that	
15	you submitted to Ms. Bassett?	
16	A That's correct.	
17	MR. COLE: I don't have anything further.	
18	MR. GICALE: I don't have anything	
19	further. Thank you, Mr. Brady.	
20	(Discussion off the record.)	
21	MR. COLE: I just wanted to clarify so that	
22	there is no mishipression left by the record that	
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	the matters we discussed moments ago, after going off	74
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1 2 3	the matters we discussed moments ago, after going off the record, related to logistics and travel plans that have since been canceled and did not indicate	74
1 2 3 4	the matters we discussed moments ago, after going off the record, related to logistics and travel plans that have since been canceled and did not indicate any substantive information that was being conveyed	74
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I, PATRICIA A. ZUBER, the officer before whom the foregoing deposition was taken, do hereby certify that the witness whose testimony appears in the foregoing deposition was duly sworn; that the testimony of said witness was taken in shorthand and thereafter reduced to typewriting by me or under my direction; that said deposition is a true record of the testimony given by said witness; that I am neither counsel for, related to, nor employed by any of the parties to the action in which this deposition was taken; and, further, that I am not a relative or employee of any attorney or counsel employed by the parties hereto, nor financially or otherwise interested in the outcome of this action.

Notary Public in and for the District of Columbia

My Commission Expires FEBRUARY 14, 2000



DEPOSITION OF BOBBY J. NASH IN RE: S. RES. 120

TUESDAY, DECEMBER 12, 1995

U.S. SENATE,

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS,

SPECIAL COMMITTEE TO INVESTIGATE WHITEWATER

DEVELOPMENT CORPORATION AND RELATED MATTERS,

Washington, DC.

Deposition of BOBBY J. NASH, called for examination pursuant to notice of deposition, at 2:35 p.m. in Room 640-A of the Hart Senate Office Building, before CARMEN BUNCH, a Notary Public within and for the District of Columbia, when were present:

ROBERT J. GIUFFRA, JR., Esq.
Majority Chief Counsel
NEAL E. KRAVITZ, Esq.
Minority Principal Deputy Special Counsel
U.S. Senate
Committee on Banking, Housing, and Urban Affairs
534 Dirksen Building
Washington, DC 20510
On behalf of the Committee.

RICHARD A. SIMPSON, Esq. Ross, Dixon & Masback, L.L.P. 601 Pennsylvania, Avenue, NW Washington, DC 20004–2688

TODD D. PETERSON, Esq. The George Washington University The National Law Center 716 Twentieth Street, NW Washington, DC 20052 On behalf of the Deponent.

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3 1 PROCEEDINGS 2 MR. GIUFFRA: Good afternoon, Mr. Nash. My 3 name is Robert Giuffra, chief counsel of the Senate 4 Banking Committee. To my left is Neal Kravitz, who 5 is principal deputy special counsel for the 6 Minority. You understand that this is a deposition that's being conducted pursuant to Senate Resolution 7 8 120. 9 This resolution establishes a Special 10 Committee administered by the Banking Committee to 11 conduct an investigation and public hearings involving Whitewater Development Corporation, Madison 12 13 Guaranty Savings & Loan Association, Capital Management Services, the Arkansas Development Finance 14 15 Authority and other related matters. Our procedure today will be, I will ask you 16 17 a series of questions and then Mr. Kravitz will ask you a series of questions. You'll be testifying 18 19 under oath. If you don't understand a question let 20 me know and I'll rephrase it. If you need a break 21 again let me know and we'll take a break. 22 You have a right to be represented by 4 1 counsel. I see you have chosen to be represented by 2 counsel. 3 THE WITNESS: Yes. 4 MR. GIUFFRA: If counsel would state an 5 appearance for the record. 6 MR. SIMPSON: Richard Simpson of Ross, 7 Dixon & Masback on behalf of the witness. 8 MR. PETERSON: Todd Peterson from The 9 George Washington University Law School. MR. GIUFFRA: You are also representing 10 11 Mr. Nash? 12 MR. PETERSON: That's correct. 13 MR. GIUFFRA: Our procedures are as set 14 forth in Senate Resolution 120. Have you got a copy of that? 15 16 MR. SIMPSON: Yes. 17 MR. GIUFFRA: As stated, objections to the form of questions can be noted for the record. You 18 19 can object also on grounds of privilege or relevance 20 and then ultimately the chairman will rule on

objections. We received a letter from Mr. Simpson

dated December 11 reflecting a communication he had

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5 1 with Alice Fisher of the Special Committee indicating 2 that we will not be questioning about specific ADFA 3 transactions. 4 MR. SIMPSON: Yes 5 MR. GIUFFRA: You understand that we may 6 have to come back for a subsequent deposition, 7 Mr. Nash? 8 THE WITNESS: Yes, I do. 9 MR. GIUFFRA: That's fine with you? 10 THE WITNESS: That's fine with me. 11 MR. GIUFFRA: But we may go into other matters covered by the resolution, but not the 12 13 specific ADFA transaction issue. MR. SIMPSON: My understanding was that you 14 15 may ask background questions such as the witness's positions at ADFA and those kinds of things, but not 16 get into any specific ADFA transactions. 17 MR. GIUFFRA: That's correct, but we may 18 ask questions about his knowledge of Whitewater or 19 20 Madison. Is that fine with you, Mr. Nash? THE WITNESS: That's fine with me. 21 22 Whereupon, 6 1 BOBBY J. NASH was called as a witness and, having first been duly 2 3 sworn, was examined and testified as follows: 4 **EXAMINATION** 5 BY MR. GIUFFRA: 6 Q Mr. Nash, would you please state your full 7 name for the record. 8 Bobby J. Nash. Α 9 10 11 Q It's Nash, N-a-s-h? 12 Α Yes, sir. 13 Now, if you could just describe your employment history, going backwards with your present 14 position and then going let's say up until when you 15 16 graduated from college. 17 Starting with my current position? Α 18 Q Correct. My current position is assistant to the 19 President and director of presidential personnel, 20 where I am responsible for recruiting noncareer 21

people into the government. Prior to that, I was

7 1 undersecretary for small communities and rural development at the U.S. Department of Agriculture, 2 3 where I was responsible for rural development 4 activities of USDA. 5 Prior to that --6 When did you become assistant to the 7 President, director of presidential personnel? 8 In about February or March of this year. 9 1995. 10 And you joined the Department of 0 11 Agriculture when? 12 It was in 1993, and I would say I was 13 confirmed in about May of 1993. 14 Were you assistant secretary? Q 15 Undersecretary. Α Oh, you were undersecretary of 16 17 agriculture. 18 Α Uh-huh. But I was at the department before I was confirmed. I was a special assistant to the 19 acting undersecretary for about maybe like a month 20 and a half, getting ready for confirmation. And I 21 believe I was confirmed in May of '93, I think, and 22 8 1 then I served from May of '93 until I came to presidential personnel, which was in February or 2 March of this year, 1995. 3 4 Now, prior to joining the Department of 5 Agriculture, what position did you hold? 6 Prior to joining the Department of 7 Agriculture, I was in presidential personnel again, I 8 was -- my title was either associate director or 9 deputy director. I can't remember which one, but 10 there were about three deputies or associates, and I 11 was one of those three. And I went to work there 12 January 20, 1993. 13 You held that position for approximately 14 three months? 15 Until I went to agriculture. 16 And you reported it Mr. Lindsey, Bruce Q 17 Lindsey? 18 No, I reported to Jan Piercy. Α Wasn't Bruce Lindsey the director? 19 Q 20 He was personnel director. Jan Piercy was 21 a deputy also, but she was like a senior deputy. It

was Jan Piercy and then there were three associate --

324 9 1 I forget the exact title. There was Bruce Lindsey. 2 Jan Piercy and then three associate directors. 3 What position did you hold before you 4 joined the office of presidential personnel on 5 January 20, 1993? 6 I was a deputy personnel director in the 7 transition office here in Washington, D.C. when Dick 8 Riley was the transition personnel director. 9 That would have been November, December, 10 January? 11 That would have been -- I got up here 12 before the end of the year so it was like late 13 November or early December, and I staved there until. over on Vermont Avenue, until the first day of the 14 15 Administration, January 20, 1993. 16 And what position did you hold prior to 17 joining the presidential transition team? 18 Before that I was president of the Arkansas 19 Development Finance Authority in Little Rock, 20 Arkansas. 21 When did you become president of ADFA? 0 22 In 1989, it was the beginning of '89, like 10 1 January or February of 1989. 2 And you had that position through '92? 3 Yes, I had that position up until I left 4 Little Rock to go to work for the transition over on 5 Vermont Avenue. 6 Prior to joining ADFA, what position did 7 you hold? 8 Prior to that position, I was senior 9 executive assistant to the governor of the state of Arkansas for economic development. And did anyone work for you when you held

10 11 12 that position?

Work for me? Α

14 Yes. Q

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15 Α Yes.

16 Q Who worked for you?

17 Let's see if I can remember. One was Phil A 18 Price, who was my, I guess you would call Phil my top 19 assistant. I'm not sure what his title was. Phil 20 Price. Another person was Suzanne Smith, who was

21 like an administrative assistant. Another person was

22 Phyllis -- let me think. Her name changed. Her name

1 is Phyllis Anderson. It may not have been Phyllis

2 Anderson then, I think it was something else, but her

- 3 name now is Phyllis Anderson. Ruth Eaglin, who was a
- 4 secretary. Now, these people I'm naming, they did
- 5 not work for me the same time. I worked there for --

6 I went to work there in 1982.

- Q 1982 through 1989?
- 8 A Yeah.

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9 Q You were the senior economic assistant -10 senior executive assistant to the governor for

11 economic development?

12 A That's right. Now, my title may have 13 changed during that period of time, but I was doing 14 basically the same work.

Q What was the nature of the work that you were performing during the period 1982-89 as senior executive assistant to the governor for economic development?

A I was the senior policy adviser for economic development in the office of the governor, so I had policy development responsibility in the area of economic development.

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Q What were some of the types of activities you would have been involved in during this period, 1982 to 1989, just generally?

A Trying to figure out ways to increase the number of jobs in the state, particularly in the areas of hired employment, trying to help develop policies to get industry to move to the state, attempting to develop new financing vehicles to finance economic development in the state, to try to find ways to develop new programs to train people who were unemployed or underemployed, to try to help

were unemployed or underemployed, to try to help existing business expand. Those are the kinds of

13 things that I did as economic adviser.

Q During this period 1982 to 1989, did you work with ADFA?

A Yes. One of my responsibilities in this job was to be liaison from the governor's office to all of the agencies that had to do with economic development.

Q What agencies were those?

A The Arkansas Development Finance Authority,

22 the Arkansas Employment Security Division, Arkansas

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1 Department of Labor, the Arkansas Industrial 2 Development Commission. There may have been others. 3 but I can't remember. Those are the main ones I 4 know. 5 Did you work with the Arkansas securities 0 6 commission at all? 7 No. I think that was somebody else. That 8 was not one of mine. 9 As senior executive assistant to the 10 governor for economic development, who did you report 11 to? 12 Chief of staff, Betsey Wright. I think 13 there may have been more than one chief of staff in 14 the time I was there. In fact, there was somebody 15 else. 16 How many other senior executive assistants 0 17 to the governor were there? 18 MR. SIMPSON: Do you mean at any one time? 19 MR. GIUFFRA: Roughly. 20 BY MR. GIUFFRA: 21 I'm just trying to get a sense, were there three of you, five of you, 10 of you, for different 22 1 program areas, I assume? 2 I would say it could have been two or 3 three. I remember Carol Rasco, Carol Rasco was 4 another one. She didn't come to work when I came to 5 work, but she was a senior economic -- not economic. 6 Senior something else. Senior was in her title and 7 that may have been one another one, too. I can't 8 remember. It wasn't like 10. Maybe two or three. 9 What kind of contact did you have with 10 Governor Clinton during this period, daily contact, 11 weekly contact, monthly contact? 12 At least weekly. Not every day, but at 13 least weekly. 14 How close was your office to the governor's 15 office, physical proximity? 16 Let me put it like this. I could get up 17 out of my chair and walk to his office and be there 18 in probably 10 seconds. 19 Did you travel with Governor Clinton on a 0 20 regular basis?

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Yes, I did.

This would be throughout Arkansas and

sometimes outside Arkansas? 1 2 Throughout Arkansas and sometimes outside 3 of Arkansas. 4 How frequently did you travel with the 0 5 governor? 6 I would say during the first part of my Α 7 work there, which I would count as from '82 to '85, not a lot, maybe in a month it might be three to four 8 9 times, maybe a little more, maybe a little less. After '85 it was probably more like a month it would 10 be six to seven to eight in that range, where I would 11 travel with him either in the state, out of state. 12 13 MR. GIUFFRA: Off the record. 14 (Discussion off the record.) 15 BY MR. GIUFFRA: 16 O Back on the record. 17 Prior to joining the governor's office in '82, what position did you hold? 18 I was Vice President of the Winthrop 19 20 Rockefeller Foundation in Little Rock, Arkansas. 21 For how long did you hold that position? 0 22 Six or seven years. I was there from like Α 16 1 the mid-'70s until I went to work in the governor's 2 office. 3 And prior to joining the Rockefeller 0 4 Foundation? 5 I worked for the state of Arkansas, and I 6 worked for the Arkansas department of planning, which 7 was a state agency, which David Pryor --8 This would have been in the early '70s? Yeah, this would have been like in the 9 Α early '70s. 10 11 Right out of college? 0 No, no. This would have been like '73, 12 13 '74. But I worked for -- it was -- who is the senior Senator from Arkansas? 14 15 Bumpers. O 16 Bumpers. So it would have been Pryor, so in the Pryor administration, I was the director of, 17 18 like, community development. That may not be the exact title, in the Pryor administration, which is a 19 state agency, and then that was like doing water and 20 21 sewer and housing and rural development and those

kinds of things in rural Arkansas. Do you want me to

1 go on through --

2 Q Sure.

2 3

A Then before that I lived here in Washington, D.C. and I worked for the National Training Service, which is like a nonprofit organization here in Washington, that did training for state and local officials around the country, and

for state and local officials around the country, and
I was the administrative person, I did the budget,

9 personnel, all of that, for that agency.

Then before that I was an administrative assistant to the city manager in Fairfax, Virginia for, I forget what it was, about a year. It was part of a management intern program that I was involved in. I was going to school at night, graduate school at Howard University. And then before that I was an administrative assistant to the deputy mayor of Washington, D.C. during the day, went to school at night.

Before that I was back in Arkansas and I was -- because I came here to go to graduate school and to work. And before that in Arkansas I worked for the Arkansas state employment service, and I was

a counselor, I helped people, low income people, get jobs in Miller County. Then before then I was in undergraduate school.

Q I think that's far enough. Where did you get your undergraduate degree?

A At the University of Arkansas at Pine Bluff, in Pine Bluff, Arkansas.

Q When did you first meet Governor Clinton?

A I believe it was when he was running for Attorney General, and I believe that was either in '74 or '76 but I saw him in a rope line, I was in like -- like a rally and he was coming down the rope line and I reached over and shook his hand. That was the first time I met him, I think.

Q When did you have a more extensive contact with Governor Clinton? Did you work on his campaigns in the late '70s?

18 A No.

19 Q So the first contact would have been in 20 '82?

A No. The first contact was -- other than just like seeing him at big speeches or rope lines

1 and things like that, was I was on the board of the

2 state -- what is now ADFA was then the state housing

finance agency. And David Pryor was governor. I was 3

working -- I was vice president of the Rockefeller 4

5 Foundation, and David Pryor put me on as a board

member on the state housing agency. That was in the 6

7 late '70s.

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8 And I remember there was a debate about mortgage revenue bonds, and he was very supportive of 9 10 mortgage revenue bonds and I was very supportive of mortgage revenue bonds, and there was going to be some testimony here before House Ways and Means, and 12 I was scheduled to come up to testify in support of 13 continuing mortgage revenue bonds. And he was going 14 to testify, along with a bunch of other people from 15 Arkansas, I don't know how many, five, six, seven, 16 17 whatever.

18 And in getting ready for that testimony, 19 there was a meeting that I went to one time where

20 there was probably I don't know how many people, but

it wasn't like hundreds like you normally have at a 21

rally, it was the people who were going to testify at 22

20

the House Ways and Means Committee and maybe a few other staffers.

In that room, that's where I sort of had contact other than these large gatherings.

When would that have been again, what year?

6 It would have been -- let's see. His first 7 term -- we had two-year terms for a while. It would 8 have been -- his first term would have been 1979 and he went for two years so it was '79 and '80 so it 9 would have been between '79 and '80. That's the time

10 11 period when this meeting occurred and the testimony,

which we eventually came to Washington, I testified, 12

he testified, a bunch of other people testified. So 13 that was the first time. 14

15 And you subsequently, then, had a close 16 relationship with Governor Clinton?

17 Well, subsequently to that -- let's see, his 19 -- I'm trying to think. He got beat after his 18

first term, whenever that was, and then he ran again

in the '82 and then I volunteered in his '82 20

gubernatorial campaign. 21 22

Do you know a man named James McDougal?

1 Yes, I do.

2

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0 When did you first meet James McDougal?

I first met James McDougal when he was a staff member for Governor Clinton during his first governor's term.

After you became senior executive assistant to the governor for economic development, did you have occasion to come in contact with Mr. McDougal again?

After I became senior executive assistant?

11 0 After 1982?

> Α Yes. Yes. I did.

Q Do you recall any of the contacts you might have had with Mr. McDougal?

I remember one particular contact, and then there may have been others like again at rallies or chamber dinners or things like that, which I'm sure he probably was at some of those meetings, but when I say meetings, events, luncheons, chamber, things like that.

But in particular, I remember stopping by his office, which was a trailer, at sometime when I

was on the governor's staff.

Do you recall the year?

3 I don't recall the specific year.

> 0 1986?

5 It could have been '86, but I'm not sure. 6

The reason I say it could have been '86 is because I remember that when I was out with the governor, it

7 8 was on economic development, industrial development,

9 those kinds of things, and because '85 was sort of a

10 banner year in terms of new programs for economic

11 development and I was out more than before, than like

12 before -- from '85 earlier it was less. From '85

13 later it was more.

> So I would say that probably it was between '85 and '89.

Q Do you think it was closer to '85 or closer to '89, if you can recall? '85-86?

I would say it may have been -- it may have been closer to '85 because when we passed all these programs in '85, there was a big effort to get the word out, to really just talk about these new

21 22

financing programs all around the state and we were

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1
    out a lot, so I would guess that it would have been
    closer to '85 or '86 than '89 or '90, although I
 2
 3
    wasn't there in '90.
 4
             Now, you had mentioned that you had gone to
 5
    McDougal's office, or where was his office?
 6
             This office was outside of Little Rock, I
7
    don't know how many miles, maybe like five, six,
 8
    maybe even 10, I'm not really sure. No, not 10.
9
    Could be 10, but it's like there was a development, a
10
    subdivision development out there.
11
             What was it called?
        O
12
             I can't think of the name of it now. It
    was advertised a lot on TV, though, but I can't think
13
14
    of it. If I think of it later I'll tell you.
15
             Castle Grande?
        O
16
             I don't recall that being it. It could be,
17
    though.
18
        0
           Does that sound familiar, Castle Grande?
19
             No, that doesn't sound familiar. I think
20
    it was something else, but I can't tell you what it
21
    is now.
22
        O
             Do you recall what his office looked like?
 1
    Was it a trailer?
2
             His office, where he was, was a trailer,
3
    like a house trailer like people live in.
4
        0
             And how far -- strike that.
5
            Was it Maple Creek Farms?
6
             That's it. Maple Creek Farms.
        A
7
             It was a house trailer located on a
8
    development called Maple Creek Farms?
9
             Well, I'm not -- it was out there. I mean.
10
    it was out -- Maple Creek Farms is between Little
11
    Rock and Pine Bluff. That's the name of that
12
    subdivision. And the office was out there between
13
    Little Rock and Pine Bluff so I guess it's in the
14
    same area. But I'm not sure whether his office
15
    was --
16
             Was the office located in the development
        Q
17
    or was it located someplace closer to Little Rock?
18
             I don't remember.
        A
19
             Was he president of the Madison Guaranty
20
```

Savings & Loan Association at this time, McDougal?

I don't remember whether he was or not. I

21

22

don't know.

25 Do you recall whether it was a cold time of 1 the year or warm time of the year when you would have 2 3 visited Mr. McDougal? 4 I vaguely remember it being not cold 5 because I don't remember having on a coat. O And again, your best estimate is somewhere 6 between five and 10 miles from Little Rock would have 7 been the location of this trailer office? 8 9 Yes. 10 0 Was the trailer on something called 145th 11 Street? It could have been. 145th Street is out in 12 Α 13 that area. That's like an industrial park outside. 14 it's like even further than the suburbs, but 145th 15 Street is out there close to where this development is, this Maple Creek Farms subdivision. And I also 16 remember that out there that this trailer was out by 17 145th Street. I don't know whether it was on 145th 18 19 or not. 20 About how far was the trailer from the 0 21 governor's mansion? Well, probably about the same, five or 10 22 26 1 miles, because Little Rock is pretty small so the 2 governor's mansion is right there sort of. I mean, it could have been a mile more or something or a mile 3 4 less. 5 And the same thing with the capitol? 0 6 It's all right there together. Everything 7 is within almost walking distance, I mean downtown. Well, the governor's mansion from the capitol is 8 9 probably a mile to a mile and a half away. 10 Now, when you visited Mr. McDougal, was Governor Clinton with you? 11 12 Yes, I remember that he was. And could you just describe for us the 13 14 circumstances -- strike that. 15 Just describe for us how you came to visit Mr. McDougal in his trailer with Governor Clinton. 16 I don't know specifically, but let me tell 17 you what I remember. Governor Clinton and I had gone 18 to some sort of event. I don't know what the event 19 was, but it had to be something related to business 20 21 or industrial development because that's what I did 22 when I worked with him.

28

Who was with you at the time in the car? 1 Q 2 A state trooper. 3 0 Do you remember the name of the trooper? 4 A I sure don't. 5 Was it L.D. Brown? O 6 I can't be for sure. Α 7 O Do you know L.D. Brown? 8 A I do. 9 0 Was he someone who sometimes accompanied 10 the governor on trips? Yes, he did. 11 Α 12 So he might have been the driver of the O 13 car? 14 He might have been. 15 Can you think of any other troopers who O 16 might have been driving the car? 17 There were about four or five troopers who 18 would drive him, and it could have been either one of 19 those four or five. 20 Could you give the names of those troopers 21 for the record? 22 I'm trying to think if I can remember. 1 Parker, last name Parker. I forget his first name. Young, Buddy Young. I'm trying to think about 2 everybody that was driving then. I can't remember 3 4 the other names, but there were a handful of them. I 5 just can't remember, it's been so long ago. 6 Do you recall whether this meeting with 7 Mr. McDougal was in the morning or the afternoon or 8 evening? 9 I don't remember. I remember it was during 10 the day. I mean, it could have been in the morning. 11 could have been in the afternoon. I remember that we left that day from the capitol going to whatever this 12 event was, and it had to be probably short because I 13 remember going back -- when I say short, it wasn't 14 15 like in Fayetteville which would take four hours to 16 get there, because we went back to the capitol, I 17 remember, before the end of the day and there was 18 still work time as I remember it. 19 When did you learn that you would be 20 meeting with Mr. McDougal on this day? 21 As I remember it, we just decided to stop 22 by. I don't remember it being on the schedule. In

1 fact, I remember looking, vaguely, looking for the 2 office. We were coming back and we stopped, we must 3 have been coming back from the area of Pine Bluff. 4 which is like south of Little Rock, because this 5 place is between Little Rock and Pine Bluff. And we stopped there for a few minutes -- I'm trying to 6 7 think. Yeah, it was coming back from an event. 8 that's right. 9 Do you remember who made the decision to 0 10 stop at McDougal's trailer? 11 I don't remember specifically who did. 12 Do you think it was the governor? 0 13 A I don't know. There were only three of us 14 in the car. 15 The trooper --0 16 The trooper, me and the governor so one of 17 us must have suggested it. 18 And probably you can exclude the trooper 19 from the equation; right? The trooper wouldn't make a decision to stop at Mr. McDougal's trailer; right? 20 21 He wouldn't decide to stop. He might 22 suggest stopping. 30 1 Q You can't think of any reason why a trooper 2 would want to stop at Mr. McDougal's trailer? 3 I can't think of a reason. I have been in 4 the car where they have suggested stopping at places. 5 Now, prior to this meeting at the trailer, 6 had you had any dealings with Mr. McDougal that you 7 can recall? 8 MR. KRAVITZ: What do you mean by 9 "dealings"? 10 BY MR. GIUFFRA: 11 Contacts, communications, meetings. 12 I met him when he was on the governor's 13 staff his first term. 14 But you don't recall having any 15 conversations, meetings, contacts with Mr. McDougal prior to going to the trailer with the governor? 16 17 Α No. I do not. 18 So by process of elimination, do you think 19 it's reasonable to assume that probably it was the 20 governor who suggested that you stop at 21 Mr. McDougal's trailer? 22

MR. SIMPSON: Object to the form. You may

31 1 answer. 2 THE WITNESS: I don't remember specifically 3 who. Someone in the car must have. You know, we 4 didn't just sort of amble up there. I remember 5 looking for the trailer. I remember finding a trailer or an office and stopping there, so I assume 6 7 that either the governor or me suggested stopping there, but I don't remember suggesting stopping 8 9 there. 10 BY MR. GIUFFRA: 11 Do you recall anything about the 12 conversation you might have had with the governor 13 during the car ride over to the trailer? 14 Α No. 15 0 Now, when you arrived at the trailer, did you go inside the trailer? 16 17 Yes. Α 18 0 So you went in the trailer and the governor 19 went in the trailer? 20 Α Yes. 21 And did the trooper go in the trailer? 0 22 I don't think the trooper went in the 32 1 trailer. I don't remember the trooper going in the 2 trailer at first. I think he may have come in the 3 trailer to say we're running late, because we were 4 always running late, and said let's go. I vaguely 5 remember him coming in the trailer or coming up on 6 the -- something, the steps or whatever the devil it 7 was you got up in the trailer, but I'm not sure 8 whether he came inside or whether he just came there and said let's go, one or the other. 9 10 Q Was there anyone else in the trailer when 11 you arrived? 12 I remember when we went in the trailer 13 there was McDougal and then there was a woman who was 14 sitting at a desk that you could see down through the 15 trailer. I forget how far back, but I could see a 16 woman at the desk. 17 Q Do you remember what she looked like? 18 Α No. I don't know. 19 Or what McDougal looked like at this time? 0 20 I don't remember specifically what he --21 when you say what he looked like, I'm not sure what

22

you mean.

33 1 Q Was he bald? Was he tall, was he skinny? 2 Α I don't know. 3 Q But you knew it was Jim McDougal? 4 Α Oh, yeah. 5 0 Was there anyone else present in the 6 trailer? 7 MR. KRAVITZ: You mean in addition to the 8 woman? 9 BY MR. GIUFFRA: In addition to the woman, McDougal, 10 11 yourself and the governor. 12 Α I did not see anyone else. 13 0 Now, inside the trailer was there a desk? 14 Α Where, you mean -- where? 15 Somewhere in the trailer. 0 16 Well, the only reason -- I will say there A 17 probably was because I remember it being like an 18 office as opposed to a place where you live with a 19 bed and stuff. So I'm just assuming -- I remember it being an office, so I would guess there was a desk. 20 21 Do you recall seeing any leather chairs in 22 the trailer? 34 1 A Oh, I wouldn't -- no. I mean, I don't 2 remember. I wouldn't remember. 3 What do you recall about what occurred 4 during this meeting you had with the governor, 5 Mr. McDougal and yourself in the trailer? 6 I vaguely remember him being surprised that 7 we walked in. I remember --8 Q That's McDougal was surprised? 9 Α McDougal --10 0 Was surprised that you had entered the 11 trailer? 12 Α As I remember it, McDougal seemed to be 13 surprised. 14 So it was not a planned meeting as far as 0 15 you know? 16 Α As far as I know, it was not a planned 17 meeting. 18 And then what happened, what occurred 19 during this meeting? 20 As I remember it, pleasantries were 21 exchanged and I remember a discussion about blue

jeans, blue jeans, because there was a blue jean

factory close, Levi Strauss has a blue jean factory 1 2 out there, and in some sort of way that subject came up. That's about the only thing specific I can 3 4 remember. 5 What do you recall about this blue jean 0 factory? 6 7 MR. SIMPSON: About the discussion in the 8 trailer? 9 MR. GIUFFRA: Yes, ves. 10 BY MR. GIUFFRA: Anything more? Was McDougal interested in 11 investing in the blue jean factory? 12 13 I don't know. 14 Q Do you recall any discussion of Whitewater Development Corporation during this meeting in the 15 16 trailer with the governor and Mr. McDougal? 17 No. Α Do you recall any discussion of Madison 18 Guaranty during this meeting with the governor and 19 Mr. McDougal in the trailer? 20 21 Α No. 22 Do you recall any discussion of something 36 1 called Capital Management Services during the meeting 2 in the trailer? 3 No. I don't. Α 4 Do you recall any discussion of Susan 5 McDougal during the meeting in the trailer? 6 I don't think --7 MR. KRAVITZ: Do you mean other than in the 8 course of pleasantries? 9 MR. GIUFFRA: Either way. THE WITNESS: What I was referring to. He 10 11 may have asked how his wife was doing. 12 BY MR. GIUFFRA: 13 Q This is the governor? 14 One of us may have asked that. A 15 Do you recall any discussion of any companies that Ms. McDougal might have been involved 16 17 with? 18 No, I don't. Α Do you recall any discussions of something 19 0 called Master Marketing? 20 21 A No. I don't. 22 Q When you say you don't recall, that means

	37
1	you have absolutely no recollection?
2	A That means I have no recollection of that.
3	Q Why do you recall this meeting in the
4	trailer with Mr. McDougal as you sit here today?
5	MR. SIMPSON: Object to the form.
6	BY MR. GIUFFRA:
7	Q Is there anything about the meeting that
8	stood out in your memory?
9	A No. I can remember when we were out on the
10	road excuse me just a second.
11	MR. KRAVITZ: Off the record for a minute.
12	(Discussion off the record.)
13	MR. GIUFFRA: What was the last question,
14	please?
15	(The reporter read the record as requested.)
16	THE WITNESS: And we would always stop at a
17	roadside park, a service station, somebody's house, a
18	fruit stand, he would always do that and talk to
19	people. He loved doing it so it was not unusual.
20	BY MR. GIUFFRA:
21	Q Why do you remember this particular visit
22	to Mr. McDougal's trailer?
	38
1	A Well, one of the reasons I remember it is
2	that some time ago, Bruce Lindsey asked me, did I
3	remember going to an office that was McDougal's
4	office with the governor, and I said yes, that I did
5	remember that I thought. That's how I remember.
6	Q What was the context in which Mr. Lindsey
7	asked you if you had any recollection of going with
8	the governor to Mr. McDougal's trailer?
9	A I don't understand. The context?
10	Q Do you recall when Mr. Lindsey asked you
11	about any meetings you might have gone to with the
12	governor and Mr. McDougal?
13	A Well, it's been probably I remember it
14	being when I was at agriculture.
15	Q Sometime in 1983 '93, excuse me.
16	A Probably.
17	MR. SIMPSON: Off the record.
18 19	MR. KRAVITZ: Let's take a five-minute break.
20	(Recess.)
21	MR. GIUFFRA: What was the last question
	WIR. GIUFFRA. What was the last question
22	and answer?

		39
1	(The reporter read the record as requested.)	
2	BY MR. GIUFFRA:	
3	Q Do you know why Mr. Lindsey asked you	
4	whether you had attended any meetings with the	
5	governor and Mr. McDougal?	
6	MR. SIMPSON: Object to the form as calling	
7	for speculation about what's someone else's intent.	
8	BY MR. GIUFFRA:	
9	Q Did you have any understanding as to why	
10	Mr. Lindsey had contacted you about any meetings the	
11	governor might have had with Mr. McDougal?	
12	A I did not know why he asked me.	
13	Q Did he say he had spoken with the governor	
14	and the governor had told him that he recollected	
15	attending a meeting at the McDougal trailer with you	
16	and Mr. McDougal?	
17	A No, he did not say that to me.	
18	Q So the President's name did not come up as	
19	a possible explanation for why you might be the	
20	person to speak to about this meeting?	
21	A No, the President's name did not come up.	
22	Q Did Mr. Lindsey state anything to you about	
		40
1	why he was coming to you about this meeting?	
2	A No, he did not.	
3	Q What exactly do you recall him saying?	
4	A I can't remember the exact words because	
5	it's been a while back, and I'm not quite sure	
6	exactly how long, but it was when I was Ag, I do	
7		
8	remember that fairly well.	
	Q Did he call you on the telephone?	
9	Q Did he call you on the telephone?A I believe he called me on the telephone.	
10	Q Did he call you on the telephone?A I believe he called me on the telephone.Q What do you recall him saying?	
10 11	 Q Did he call you on the telephone? A I believe he called me on the telephone. Q What do you recall him saying? A I don't recall the specific words, but it 	
10 11 12	 Q Did he call you on the telephone? A I believe he called me on the telephone. Q What do you recall him saying? A I don't recall the specific words, but it was do you remember being at a meeting with Governor 	
10 11	Q Did he call you on the telephone? A I believe he called me on the telephone. Q What do you recall him saying? A I don't recall the specific words, but it was do you remember being at a meeting with Governor Clinton at an office McDougal had that was a trailer,	
10 11 12 13 14	Q Did he call you on the telephone? A I believe he called me on the telephone. Q What do you recall him saying? A I don't recall the specific words, but it was do you remember being at a meeting with Governor Clinton at an office McDougal had that was a trailer, and I said yeah, I think I remember that. And then	
10 11 12 13 14 15	Q Did he call you on the telephone? A I believe he called me on the telephone. Q What do you recall him saying? A I don't recall the specific words, but it was do you remember being at a meeting with Governor Clinton at an office McDougal had that was a trailer, and I said yeah, I think I remember that. And then he said do you know who was there, and I said I	
10 11 12 13 14 15 16	Q Did he call you on the telephone? A I believe he called me on the telephone. Q What do you recall him saying? A I don't recall the specific words, but it was do you remember being at a meeting with Governor Clinton at an office McDougal had that was a trailer, and I said yeah, I think I remember that. And then he said do you know who was there, and I said I remember it was Clinton and McDougal and me. And I	
10 11 12 13 14 15 16 17	Q Did he call you on the telephone? A I believe he called me on the telephone. Q What do you recall him saying? A I don't recall the specific words, but it was do you remember being at a meeting with Governor Clinton at an office McDougal had that was a trailer, and I said yeah, I think I remember that. And then he said do you know who was there, and I said I remember it was Clinton and McDougal and me. And I think that's basically what I said. And he said oh,	
10 11 12 13 14 15 16 17 18	Q Did he call you on the telephone? A I believe he called me on the telephone. Q What do you recall him saying? A I don't recall the specific words, but it was do you remember being at a meeting with Governor Clinton at an office McDougal had that was a trailer, and I said yeah, I think I remember that. And then he said do you know who was there, and I said I remember it was Clinton and McDougal and me. And I think that's basically what I said. And he said oh, okay, and that was it that I remember.	
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10 11 12 13 14 15 16 17 18 19 20	Q Did he call you on the telephone? A I believe he called me on the telephone. Q What do you recall him saying? A I don't recall the specific words, but it was do you remember being at a meeting with Governor Clinton at an office McDougal had that was a trailer, and I said yeah, I think I remember that. And then he said do you know who was there, and I said I remember it was Clinton and McDougal and me. And I think that's basically what I said. And he said oh, okay, and that was it that I remember. Q Do you recall anything more about the conversation with Mr. Lindsey?	
10 11 12 13 14 15 16 17 18 19	Q Did he call you on the telephone? A I believe he called me on the telephone. Q What do you recall him saying? A I don't recall the specific words, but it was do you remember being at a meeting with Governor Clinton at an office McDougal had that was a trailer, and I said yeah, I think I remember that. And then he said do you know who was there, and I said I remember it was Clinton and McDougal and me. And I think that's basically what I said. And he said oh, okay, and that was it that I remember. Q Do you recall anything more about the	

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		41
1	White House about this meeting you had with the	
2	governor and Mr. McDougal in Mr. McDougal's trailer?	
3	A No, I haven't.	
4	Q Did you ever speak to the President about	
5	this meeting?	
6	A No, I haven't.	
7	Q Did Mr. Lindsey ask you whether David Hale	
8	was present at the meeting between the governor and	
9	Mr. McDougal in Mr. McDougal's trailer?	
10	A No, I don't remember him asking me whether	
11	Mr. Hale was at this meeting in the trailer.	
12	Q Do you ever recall any discussion of	
13	Mr. Hale during the conversation with Mr. Lindsey?	
14	A No, I do not.	
15	Q Do you know Mr. Hale?	
16	A Yes, I do.	
17	Q How do you know Mr. Hale, what's the	
18	context?	
19	A How do I know Mr. Hale?	
20	Q Yes.	
21	A He's a prominent figure. He was a	
22	prominent figure in central Arkansas. He was a judge	
		42
1	so he was at a lot of these business industrial	42
1 2	so he was at a lot of these business industrial events, chamber luncheons, those kinds of things that	42
		42
2	events, chamber luncheons, those kinds of things that	42
2	events, chamber luncheons, those kinds of things that people go to so that's how I know him.	42
2 3 4	events, chamber luncheons, those kinds of things that people go to so that's how I know him. Q Do you recall any meetings between	42
2 3 4 5	events, chamber luncheons, those kinds of things that people go to so that's how I know him. Q Do you recall any meetings between Mr. Hale strike that.	42
2 3 4 5 6	events, chamber luncheons, those kinds of things that people go to so that's how I know him. Q Do you recall any meetings between Mr. Hale strike that. Do you recall being present at any meetings	42
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43 1 or some party or anything like that? 2 MR. GIUFFRA: Strike that and we'll 3 rephrase. 4 BY MR. GIUFFRA: 5 Do you recall any other contacts between 6 Governor Clinton and Mr. McDougal during your tenure 7 as senior executive assistant to the governor for 8 economic development? 9 No, I do not. Α So the only meeting you can recall or 10 contact is this meeting in the trailer sometime in 11 12 '85 or '86? 13 MR. SIMPSON: Let me object. 14 MR. KRAVITZ: Hold on one second. I don't 15 think that that accurately characterizes his 16 testimony. 17 MR. SIMPSON: The same objection. 18 MR. KRAVITZ: In terms of the time of the 19 meeting. 20 THE WITNESS: Your question? 21 BY MR. GIUFFRA: 22 Do you recall any other contacts between 44 1 Governor Clinton and Mr. McDougal other than the contact you've testified to here today at the 2 3 trailer? 4 Α I don't recall any others. And I assume 5 your questions were not related to where there are a thousand people. I don't even recall that but there 6 7 may have been a meeting where he was there and the 8 governor was there, McDougal was there and the 9 governor was there, but I don't even remember that. 10 But I bet there was. Did you ever discuss Mr. McDougal with 11 12 Governor Clinton that you can recall? 13 Α No, I never did. 14 Did Mr. McDougal ever call you up on any occasion that you can recall? 15 16 No. not that I recall. 17 Q Do you recall ever meeting with him?

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MR. SIMPSON: Other than --

Other than the meeting in the trailer.

MR. SIMPSON: Meetings with McDougal?

BY MR. GIUFFRA:

MR. GIUFFRA: Yes.

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1	THE WITNESS: No, I do not.	
2	BY MR. GIUFFRA:	
3	Q Do you recall ever speaking with Mr. Hale	
4	by telephone when you were in the governor's office?	
5	A I could have. I don't remember	
6	specifically.	
7	Q Why do you think you might have had	
8	communications with Mr. Hale?	
9	A Because I was involved in economic	
10	development and he was involved in economic	
11	development and he was a prominent figure in central	
12	Arkansas.	
13	Q Did you ever have any contact or dealing	
14	with his firm called Capital Management Services,	
15	Inc.?	
16	A I remember trying to find out what it did	
17	at one time. I don't remember exactly when.	
18	Q Going back to the meeting in the trailer,	
19	your best recollection is that the discussion	
20	involved a blue jean factory that was located nearby	
21	the trailer?	
22	MR. SIMPSON: Let me object. I mean, he	
		4.4
		40
1	testified to pleasantries and being able to remember	40
1 2	testified to pleasantries and being able to remember the blue jeans as one topic.	40
1 2 3	testified to pleasantries and being able to remember the blue jeans as one topic. BY MR. GIUFFRA:	40
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1 2 3 4 5	testified to pleasantries and being able to remember the blue jeans as one topic. BY MR. GIUFFRA: Q But you recall the blue jeans as being a topic of the meeting?	40
1 2 3 4 5 6	testified to pleasantries and being able to remember the blue jeans as one topic. BY MR. GIUFFRA: Q But you recall the blue jeans as being a topic of the meeting? A I vaguely remember that being mentioned.	40
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47 1 meeting? The question stands. 2 MR. SIMPSON: Object to the form as calling 3 for speculation. 4 THE WITNESS: Ask the question again. 5 BY MR. GIUFFRA: 6 Do you believe, other than pleasantries, 7 that the blue jean factory was the only subject 8 discussed at this meeting at the trailer at 145th 9 Street? 10 Α I don't remember 11 0 Could other subjects have been discussed at 12 this meeting? 13 I don't remember that there were. Α 14 But is it possible that other subjects 0 15 might have been discussed? 16 MR. SIMPSON: Object to the form. 17 THE WITNESS: I don't know. 18 BY MR. GIUFFRA: 19 You don't know? Q 20 A I don't know. 21 O Do you recall how long the meeting was? 22 Oh, I don't specifically, but it probably 48 1 was short only because as I remember it, it was not 2 scheduled, and I don't remember sitting down 3 specifically, sitting down. 4 Do you recall if the meeting was an hour? 0 5 Α I don't think it was anywhere close to an 6 hour. 7 Would you say a half hour? 0 8 No. I don't know specifically. If I were 9 guessing I might say it might have been five or 10 10 minutes, but I'm not sure. 11 Do you have any recollection as to whether 12 the governor knew where the trailer was located? 13 I recall us looking for it so I don't think 14 anybody knew as far -- I think everybody knew that 15 there was a -- this development, you called it a few 16 minutes ago --17 Maple Creek Farms. 18 Maple Creek Farms was out there because it 19 was advertised on TV like every week, I forget when, 20 but it was. So I think probably everybody in the car

knew that Maple Creek Farms was out there, but I

remember us looking for it, everybody, the three

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344 49 people in the car were trying to figure out where it 1 was. I vaguely remember that. 2 3 Do you have any understanding as to whether Governor Clinton had ever been to this trailer on 4 5 other occasions? 6 Do I have any understanding? Α 7 0 Yes. 8 No Α 9 Did it appear to you that the governor had ever been to the trailer before, based on what 10 11 Mr. McDougal or the governor said? 12 Α Did it appear to me? Ask the question once 13 more. 14 Do you have any understanding as to whether the governor had ever been to this trailer before? 15 16 I have no understanding that he had been to 17

the trailer before this meeting.

Other than the meeting with Mr. Lindsey, do you recall any other occasions at which you discussed with anyone -- strike that.

21 Other than the telephone conversation with 22 Mr. Lindsey, do you recall any other occasions on

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which you've discussed this meeting in the trailer 1 2 between Governor Clinton and Mr. McDougal? 3 MR. SIMPSON: Other than counsel? 4 MR. GIUFFRA: Yes. 5 THE WITNESS: Yes. I want to say it was 6 with Bruce Lindsey. 7 BY MR. GIUFFRA: 8 A second conversation with Mr. Lindsey? 9 Yes. I want to say it was around 10 Thanksgiving, either before Thanksgiving or after, 11 I'm not real sure, this past Thanksgiving. 12 Oh, 1995? 0 13 Α Yes. 14 Q What did Mr. Lindsey say to you? 15 He had just asked me did I remember him

asking me about a meeting that the governor had in a trailer with me and McDougal, and I said yeah, I do

18 remember that.

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19 Do you have any understanding as to why 20 Mr. Lindsey was asking you whether he had asked you about this meeting between the governor and 21 22 Mr. McDougal?

1		2 T
	Δ	No.
ı.	α	110.

Q Did he indicate that he had been questioned by the Senate Special Committee about his communications with you with regard to this meeting?

A No.

Q Do you recall any other occasions -- strike that.

I apologize if I've asked this question before, but do you have any understanding or recollection as to whether Mr. McDougal ever visited the governor's office during the time you were there?

A Ever visited the governor's office while I was working in his office?

O Yes.

A I don't recall a time where McDougal visited the governor's office while I was working at the governor's office.

Q You don't ever recall seeing him in the office?

A No, I do not.

Q Do you ever recall seeing him in the governor's mansion, McDougal?

A I don't recall ever seeing him in the governor's mansion.

Q Did you have any contact with Madison Guaranty Savings & Loan Association in connection with your responsibilities as a senior executive assistant to the governor for economic development?

A No, I had no contact with Madison Guaranty in my role as that.

Q When did you first learn of the fact that President and Mrs. Clinton had an investment in something called Whitewater Development Corporation?

A At some time during the 1992 Presidential campaign.

Q So it's your testimony that you don't recall any discussion of the President's investment in Whitewater Development Corporation prior to 1992?

A That's correct.

Q I'll just ask you another question about the meeting in the trailer. Did you discuss this meeting in the trailer with Betsey Wright on any occasion?

A No, I don't recall discussing this meeting

		53
1	with Betsey Wright on any occasion.	
2	Q When did you first learn of an	
3	investigation relating to Capital Management Services	
4	or David Hale, criminal investigation?	
5	A Let's see. It was while I was up here,	
6	maybe when I was at agriculture. Whenever it came	
7	out in the press, in the newspapers is when I heard	
8	about it.	
9	Q When did you first learn of an	
10	investigation relating to Madison Guaranty or Jim	
11	McDougal?	
12	A I believe it was during the Presidential	
13	campaign, I think. Whenever it came out in the	
14	newspaper. I don't know specifically, but whenever	
15	it came out in the newspaper is when I knew about	
16	that.	
17	Q Do you have any knowledge with regard to a	
18	Clinton for governor fundraiser that was held in 1985	
19	at Madison?	
20	A No, I don't recall a fundraiser that was	
21	held at Madison. When again?	
22	Q 1985?	
==	Q 1703.	
		54
1	A I don't recall	54
1 2	A I don't recall. O You don't recall attending such a	54
2	Q You don't recall attending such a	54
2 3	Q You don't recall attending such a fundraiser?	54
2 3 4	Q You don't recall attending such a fundraiser? A No, I don't.	54
2 3 4 5	Q You don't recall attending such a fundraiser? A No, I don't. Q You don't recall any discussions of the	54
2 3 4 5 6	Q You don't recall attending such a fundraiser? A No, I don't. Q You don't recall any discussions of the setting up of such a fundraiser?	54
2 3 4 5 6 7	Q You don't recall attending such a fundraiser? A No, I don't. Q You don't recall any discussions of the setting up of such a fundraiser? A No, I don't.	54
2 3 4 5 6 7 8	Q You don't recall attending such a fundraiser? A No, I don't. Q You don't recall any discussions of the setting up of such a fundraiser? A No, I don't. Q Have you had any contacts with regard to	
2 3 4 5 6 7 8 9	Q You don't recall attending such a fundraiser? A No, I don't. Q You don't recall any discussions of the setting up of such a fundraiser? A No, I don't. Q Have you had any contacts with regard to either Madison, Whitewater or David Hale with Webster	
2 3 4 5 6 7 8 9 10	Q You don't recall attending such a fundraiser? A No, I don't. Q You don't recall any discussions of the setting up of such a fundraiser? A No, I don't. Q Have you had any contacts with regard to either Madison, Whitewater or David Hale with Webster Hubbell?	
2 3 4 5 6 7 8 9 10 11	Q You don't recall attending such a fundraiser? A No, I don't. Q You don't recall any discussions of the setting up of such a fundraiser? A No, I don't. Q Have you had any contacts with regard to either Madison, Whitewater or David Hale with Webster Hubbell? A Any conversations?	
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2 3 4 5 6 7 8 9 10 11 12 13	Q You don't recall attending such a fundraiser? A No, I don't. Q You don't recall any discussions of the setting up of such a fundraiser? A No, I don't. Q Have you had any contacts with regard to either Madison, Whitewater or David Hale with Webster Hubbell? A Any conversations? Q Yes. A No.	
2 3 4 5 6 7 8 9 10 11 12 13 14	Q You don't recall attending such a fundraiser? A No, I don't. Q You don't recall any discussions of the setting up of such a fundraiser? A No, I don't. Q Have you had any contacts with regard to either Madison, Whitewater or David Hale with Webster Hubbell? A Any conversations? Q Yes. A No. Q Have you ever discussed Madison,	
2 3 4 5 6 7 8 9 10 11 12 13 14 15	Q You don't recall attending such a fundraiser? A No, I don't. Q You don't recall any discussions of the setting up of such a fundraiser? A No, I don't. Q Have you had any contacts with regard to either Madison, Whitewater or David Hale with Webster Hubbell? A Any conversations? Q Yes. A No. Q Have you ever discussed Madison, Whitewater, David Hale with William Kennedy?	
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16	Q You don't recall attending such a fundraiser? A No, I don't. Q You don't recall any discussions of the setting up of such a fundraiser? A No, I don't. Q Have you had any contacts with regard to either Madison, Whitewater or David Hale with Webster Hubbell? A Any conversations? Q Yes. A No. Q Have you ever discussed Madison, Whitewater, David Hale with William Kennedy? A No.	
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2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19	Q You don't recall attending such a fundraiser? A No, I don't. Q You don't recall any discussions of the setting up of such a fundraiser? A No, I don't. Q Have you had any contacts with regard to either Madison, Whitewater or David Hale with Webster Hubbell? A Any conversations? Q Yes. A No. Q Have you ever discussed Madison, Whitewater, David Hale with William Kennedy? A No. Q Have you ever discussed Madison, Whitewater or David Hale with Hillary Clinton? A No.	
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	55
1	Q Have you ever discussed Madison, Whitewater
2	or David Hale with Jim Guy Tucker?
3	A No.
4	Q Have you ever discussed Madison, Whitewater
5	or David Hale with Bernard Nussbaum?
6	A No.
7	Q Do you recall any other discussion you
8	might have had about Madison, Whitewater or David
9	Hale with anybody at the White House?
10	MR. KRAVITZ: Did you say other
11	discussions?
12	MR. GIUFFRA: Any discussion.
13	THE WITNESS: Any discussions about
14	Madison, Whitewater
15	BY MR. GIUFFRA:
16	Q Or David Hale.
17	MR. SIMPSON: With?
18	MR. GIUFFRA: People at the White House.
19	THE WITNESS: No, other than I was told
20	about this hearing, I was told that I had to come up
21	here. That was it.
22	BY MR. GIUFFRA:
==-	56
1	
1 2	56
1 2 3	Q Are you familiar with a real estate project
1 2 3 4	Q Are you familiar with a real estate project called Castle Grande? A No, I'm not. Q Are you familiar with a real estate project
1 2 3 4 5	Q Are you familiar with a real estate project called Castle Grande? A No, I'm not.
1 2 3 4 5 6	Q Are you familiar with a real estate project called Castle Grande? A No, I'm not. Q Are you familiar with a real estate project called Castle Sewer & Water? A I'm sorry, say the word again?
1 2 3 4 5 6 7	Q Are you familiar with a real estate project called Castle Grande? A No, I'm not. Q Are you familiar with a real estate project called Castle Sewer & Water? A I'm sorry, say the word again? Q Castle Sewer & Water.
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- 1 business or industrial development event. And the 2 reason I say that is because when I would go out with 3 him, it would be that kind of activity the overwhelming majority of the time. A plant 4 announcement, a groundbreaking, a visit to a company 5 or something like that. 6 7 But you can't remember anything more about 8 the particular event? 9 A I really can't. Can't remember where it was located? 10 0 I don't remember specifically, but I 11 12 vaguely remember that, like, it was close, you know, 13 like close being like --Within 15 or 20 miles of Little Rock? 14 Well, let's say within an hour's driving 15 time, I'm just guessing, which means it could have 16 17 been like 50 or 60 miles. See, Pine Bluff is about 18 45 miles from Little Rock. It could have been in 19 Pine Bluff, it could have been anywhere in a radius 20 of an hour or so from Little Rock, and that's only vague because I remember going there in the morning, 21 I don't know whether it was early morning or late 22 58 morning, going to whatever it was and then coming 1 back and still after stopping and still going back to 2 the office and working for -- it was still daylight 3 as I remember when we were back. 4 You don't remember anything more about the 5 6 particular event, ground breaking at X, Y or Z? 7 I don't. I tried to think about that and I 8 don't remember. 9 With regard to this blue jeans plant, tell 10 me as much as you know about the blue jeans plant. 11 Α About the blue jeans plant. 12 Yeah. 0 13 I know that the blue jeans plant is a Levi Strauss blue jeans plant. 14 15 And it's located near Maple Creek?
- 16 It's located out that way. I don't know how near it is to where the Maple Creek subdivision 17 18 is, but it's in that area, in that vicinity. 19 And it's your testimony that the discussion between Clinton and McDougal had something to do with 20 21 economic development in that plant? 22 MR. SIMPSON: Object to the form and

Let me say what my best recollection is, is

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recollection is?

1 that sometime between 1985 and 1989, it may have been

2 closer to '85 than '89. I was at a trailer where Jim

3 McDougal, Bill Clinton and I were talking for a short

period of time. And I remember the discussion having

5 to do with blue jeans but I don't remember how blue 6

ieans came up. I remember that there were other

pleasantries like hello, how are you and that kind of

thing that you would normally do.

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I remember the meeting being shorter rather than longer, I think earlier you said something about was it an hour, was it half an hour. I'm thinking like it was maybe much shorter than that, like close to five or 10 minutes, and I remember that we stood up. I don't remember sitting down.

I remember that I saw a woman in the trailer who was not in the area where we were, but you could look back down through the trailer and there was a woman sitting at a desk who looked like she was, I don't know whether she was writing or typing, I can't remember. I don't remember who this woman was, or I didn't recognize her.

There was a trooper who may or may not have

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1 gotten out of the car and come in to get us to go. I 2 think I vaguely remember him getting out of the car 3 because the troopers would always be pushing him to 4 go because he would always be late and stop places 5 that were not on his itinerary. That's what I 6 remember.

During the period when you were senior executive assistant to the governor for economic development, did you ever have any contact with the Rose Law Firm?

Not that I remember.

Did you have any contact with Web Hubbell? MR. SIMPSON: During that period? BY MR. GIUFFRA:

During the period '82 to '89? O

I assume you mean while I was on the governor's staff. Not that I remember, other than, again, large events where there were hundreds of people, he could have been at some sort of chamber dinner, luncheon or something like that and I was at the same place, but I don't remember specifically.

Do you recall any contacts with Mr. Vince

1 Foster? 2 MR. KRAVITZ: During that time period? 3 BY MR. GIUFFRA: 4 During that period '82 to '89. Q 5 Α No, I do not. 6 Do you recall any contacts with Beverly 0 Bassett-Schaffer during the period '82 to '89? 7 Beverly Bassett-Schaffer, who was the 8 9 securities commissioner? 10 Correct. O 11 Α From '82 to '89. I'm sure that I probably 12 did because I know that at one time -- at some time when I was in the governor -- although I'm not sure 13 14 of that. I may have left. She was a department 15 head, so I may have attended department head meetings 16 or other functions where us state government people 17 were called together, but I don't remember specifically. But I would be surprised if we were 18 19 not at some event or gathering together. 20 Q Do you recall having any discussions with 21 anyone with regard to the construction of a brewery 22 at something called Castle Grande Estates? 64 No, I do not. Now, you mentioned earlier, 2 I wanted to tell you, when you mentioned Castle 3 Grande earlier, I remember that I did read 4 something --5 First of all, the answer to your question 6 is no with regard to Castle Grande Brewery and 7 discussion. The answer is no. 8 I remember reading something in the 9 newspaper now about Castle Grande, but I have no idea 10 what that is. I do remember reading about that in 11 the newspaper several years ago. And it's your testimony you don't recall 12 13 any other contacts with Jim McDougal during the 14 period '82 to '89 of any substance? 15 A No, other than some large meeting where 16 there were hundreds and hundreds of people where he 17 may have been there, but I'm not even sure about 18 that. 19 0 Don't recall taking any action at the 20 request of Mr. McDougal?

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Α

Q

No. I do not.

Do you recall any discussion in the

65 governor's office of Mr. McDougal? 1 Do I recall any --2 Α 3 Any discussion of Mr. McDougal with anyone in the governor's office. 4 No, I do not recall any discussion with 5 anyone in the governor's office about Mr. McDougal. 6 7 Q Never discussed Mr. McDougal with the 8 governor? 9 A Never discussed Mr. McDougal with the governor, other than when we were at the trailer. 10 Did he say anything about McDougal when you 11 went to the trailer? 12 13 Α I'm sorry? O Did he say anything to you about 14 Mr. McDougal when you went to the trailer? 15 A I'm not sure when you're referring to. 16 When you went to the trailer sometime 17 0 18 between '85 and '89, closer to '85, did Clinton say anything about McDougal, like we're going to go see 19 20 Jim McDougal, who is X? 21 A Oh, I don't recall. No, I don't recall him 22 saying anything about that. Other than looking --66 1 other than looking for this trailer. I can't 2 remember the exact discussion but I do remember looking for this trailer where McDougal's office 3 4 was. I do remember that, but I don't recall the 5 exact discussion. 6 Q Do you recall any discussion of David Hale 7 during the period when you were in the governor's 8 office? 9 Α Do I recall any discussions about David 10 Hale --11 0 Or involving David Hale. With me? 12 A Or anybody else in the office. 13 Q 14 Α No, no, I do not. 15 O Did you ever take any action at the request of Mr. Hale? 16 17 No. A Did Mr. Hale ever ask you to do anything? 18 Q I don't recall anything he asked me to do. 19 When you say "do," what do you mean by "do"? 20 Take action. 21 0

No, I don't recall any action.

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Α

67 1 Do you recall any discussions with Mr. Hale 2 you might have had during the period when you worked 3 in the governor's office? 4 Well, I am sure that again, I'm going back 5 to a lot of activities, it would have been a casual 6 conversation at an event with hundreds of people 7 where he may have said hello and I said hello, but I 8 do not recall any action Mr. Hale asked me to take 9 regarding any issue. 10 Do you know a man named R.D. Randolph? 0 11 Yes, I do. Α 12 0 Who is R.D. Randolph? R.D. Randolph is an employee of the 13 Arkansas Development Finance Authority, and he works 14 in the agricultural division of ADFA. 15 16 And so he used to work for you? He worked for the agency that I ran. He 17 18 did not work directly for me. He worked for -- I forget his name, but whoever the vice president for 19 20 agriculture is, or was. 21 Do you know a man named Dan Lassiter? 0 22 Α Yes, I do. 68 1 Tell us how you know Dan Lassiter. 2 I know Dan Lassiter because he was an 3 investment banker in Little Rock, Arkansas and I know 4 probably most of the investment bankers in Arkansas. 5 particularly central Arkansas. 6 Did you ever attend any meetings between 7 Mr. Lassiter and Governor Clinton? 8 No. I didn't attend any meetings between 9 Governor Clinton and Dan Lassiter. 10 Do you have any understanding as to whether 11 Mr. Lassiter knows Governor Clinton? 12 I do not know. I assume they do based upon 13 press accounts. 14 Did you ever discuss Mr. Lassiter with 15 Governor Clinton? 16 A No. 17 Did you ever discuss Mr. Lassiter with 18 Bruce Lindsey? 19 Α No. 20 Do you know a man named Jack Palladino? 0 21 Α No.

MR. GIUFFRA: I don't have any other

		6
1	questions.	
2	MR. KRAVITZ: I have just a few questions.	
3	EXAMINATION	
4	BY MR. KRAVITZ:	
5	Q You were asked about the point in time as	
6	you and Governor Clinton and the state trooper were	
7	in the car and looking for Mr. McDougal's trailer	
8	near Maple Creek Farms, and I believe your testimony	
9	was that all three of you were looking for the	
10	trailer; is that correct?	
11	A Yes, that's what I recollect.	
12	Q Was it your impression that Governor	
13	Clinton had never been to that trailer before that	
14	time?	
15	A Because we were "we" being the trooper	
16	and Governor Clinton and I were looking for it, I	
17	would assume that he had never been there.	
18	Q Did Governor Clinton appear to know exactly	
19	where the trailer was before you-all located it?	
20	A No.	
21	MR. KRAVITZ: That's all I have. Thanks.	
22	EXAMINATION	
		7
1	BY MR. GIUFFRA:	
2	Q One question. Was this the kind of trailer	
3	that could be moved?	
4	A I think it was. I think it was like a	
5	house trailer, like you would yes, it was I	
6	think it was the kind of trailer that could be moved.	
7	Q So it had wheels on it and it could be	
8	driven? Was it like a Winnebago?	
9	A No. As I remember this trailer I know	
10	what you mean by Winnebago. You get in this thing	
11	and you just drive it, it's self-contained; right?	
12	Is that what you mean?	
13	Q Yes.	
14	A It was not that kind of trailer.	
15	Q But it was the kind of trailer that you	
16		
17	could tow around if you had a car to pull it?	
1.0	could tow around if you had a car to pull it? A I think it was a trailer, as I remember it,	
18	could tow around if you had a car to pull it? A I think it was a trailer, as I remember it, that you could pull around with a truck, like a	
19	could tow around if you had a car to pull it? A I think it was a trailer, as I remember it, that you could pull around with a truck, like a truck. I don't think it was like a car. It wasn't	
	could tow around if you had a car to pull it? A I think it was a trailer, as I remember it, that you could pull around with a truck, like a	

22 trailers in Arkansas that people live in.

BOBBY J. NASH

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I, CARMEN BUNCH , the officer
before whom the foregoing deposition was taken, do hereby
certify that the witness whose testimony appears in the
foregoing deposition was duly sworn; that the testimony of
said witness was taken in shorthand and thereafter reduced
to typewriting by me or under my direction; that said
deposition is a true record of the testimony given by said
witness; that I am neither counsel for, related to, nor
employed by any of the parties to the action in which this
deposition was taken; and, further, that I am not a
relative or employee of any attorney or counsel employed by
the parties hereto, nor financially or otherwise interested
in the outcome of this action.

Notary Public in and for the District of Columbia

My Commission Expires MARCH 14, 1998

DEPOSITION OF WILLIAM CAIN LYON IN RE: S. RES. 120

THURSDAY, DECEMBER 14, 1995

U.S. SENATE,
COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS,
SPECIAL COMMITTEE TO INVESTIGATE WHITEWATER
DEVELOPMENT CORPORATION AND RELATED MATTERS,
Washington, DC.

Telephone deposition of WILLIAM CAIN LYON, called for examination pursuant to notice of deposition, at 11:20 a.m. in Room 640–A of the Hart Senate Office Building, before GARY S. HOWARD, a Notary Public within and for the District of Columbia, when were present:

LOUIS J. GICALE, Esq.
Majority Deputy Special Counsel
JAMES S. PORTNOY, Esq.
Minority Associate Special Counsel
JAMES F. REDFERN
Majority Special Investigator
U.S. Senate
Committee on Banking, Housing, and Urban Affairs
534 Dirksen Building
Washington, DC 20510
On behalf of the Committee.

APPEARANCES

THOMAS L. MAYS, Esq. P.O. Box 710 Fordyce, Arkansas 71742 On behalf of the Deponent.

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William Cain Lyon	
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1	PROCEEDINGS
2	MR. GICALE: At this point, we will go on
3	the record.
4	Mr. Mays, you are present with your client,
5	Mr. Lyon.
6	MR. MAYS: That's correct.
7	MR. GICALE: And previously, off the
8	record, I asked whether your client would consent to
9	being sworn in over the phone by the stenographer.
0	And it's my understanding that your client does
1	consent to being sworn in by the stenographer over
2	the phone.
3	Is that correct?
4	MR. MAYS: That's correct.
5	MR. GICALE: Mr. Lyon, is that correct?
6	THE WITNESS: Yes, sir.
7	MR. GICALE: Can we have the stenographer
8	please swear in Mr. Lyon, the Witness?
9	Whereupon,
0.	WILLIAM CAIN LYON
1	was called as a witness and, having been first duly
22	sworn, was examined and testified as follows:

5 1 **EXAMINATION** 2 BY MR. GICALE: 3 Mr. Lvon, could you please state your name 0 4 for the record? 5 My name is William Cain Lyon. Α Did you say Cain is the middle name? 6 Q 7 Yes, sir, C-a-i-n. Α 8 9 What is your present business address? 10 O No. 1 Lyon Lane, Fordyce -- F-o-r-d-y-c-e --11 12 Arkansas 71742. And what is the name of your business, the 13 0 14 business you work at? The business that I work at is Lyon Folder 15 16 Company. I'm also in some other things. I'm a redneck businessman. 17 And what is your business phone number? 18 Q 19 352-7161 Α 0 20 That's area code 501? 21 Yes, sir. Α 22 0 Mr. Lyon, you are present in your 6 attorney's office today. That's Mr. Mays. 1 MR. GICALE: Mr. Mays, could you give us 2 3 your full name and your address? 4 MR. MAYS: My full name is Thomas L. Mays, M-a-y-s. My business mailing address is P.O. Box 5 6 710, Fordyce 71742. 7 MR. GICALE: And your business phone 8 number? 9 MR. MAYS: 501-352-5165. 10 MR. PORTNOY: Is that 5161, sir? 11 MR. GICALE: Could you repeat your phone 12 number again? 13 MR. MAYS: 501-352-5165. MR. GICALE: Thank you. 14 15 BY MR. GICALE: Now, Mr. Lyon, what business are you 16 presently in? The company that you just named, what 17 is the nature of that business? 18 19 The nature of the business is manufacturer's custom file folders. I am the manager. 20 I work for a large concern. Now at one time I owned 21

that business and I sold it and now I manage it for

How long have you been the manager of that

 them.

business?

4	A I've been the manager of the business
5	approximately eight years. I started the business
6	probably 23 to 24 years ago.
7	Q Now, are you involved in any other
8	businesses at this point in time?
9	A At this one time, I'm involved in other
0	business. It's Phillips-Lyon Plywood Sales.
1	Q And what type of business is that?
2	A We sell reject plywood and lumber. A very
3	small operation.
4	Q And what is your are you the owner of
5	that business?
6	A I own 50 percent of the business. I
7	actually do not run it.
8	Basically, what it boils down to, I own the
9	building and a friend and partner runs the business.
0	We've been in that company well, almost two years.
1	Q Now prior to becoming manager of the Lyon
2	business that you first described, you were the
1	owner.
2	Were you involved in any other businesses
3	prior to these two?
4	A Yes, sir.
5	Q What other businesses?
6	A Sir, there would be too many to name, all
7	small businesses. I was mostly in concrete
8	construction and gravel-hauling, that type of thing.
9	Later on, in banking.
0	Q What banking business were you involved in?
1	A I was involved in what is now the Pine
2	State Bank, which is the smallest bank in Arkansas,
3	originally the Bank of New Edinburg.
4	MR. GICALE: Off the record for a second.
5	(Discussion off the record.)
6	MR. GICALE: We're back on the record
7	again.
8	BY MR. GICALE:
9	Q The bank that you were involved with, could
20	you spell the name of that bank?
21	A The name of the bank is Pine, P-i-n-e,
22	State Bank.

It's been a long time ago. I really don't

11 1 know who all owned the remainder of it. 2 Did James McDougal have an interest in that 3 bank at all? 4 No, sir, he did not. Α 5 Now, were you involved or have an ownership 6 interest in any other banks? 7 Did I have an ownership interest in any 8 other bank? 9 O Yes. 10 A Is that the question? 11 Yes, that's the question -- did you have an 12 ownership interest in any other bank? A No. sir. 13 14 O Other than the concrete-hauling business 15 and this bank, were there any other significant 16 businesses that you were involved in from 1983 to the 17 present? 18 MR. MAYS: Let's go off the record a 19 minute. 20 MR. GICALE: Let's go off the record. 21 (Discussion off the record.) 22 BY MR. GICALE: 12 1 Mr. Lyon, in addition to the concrete 2 business and the Pine State Bank, were you also 3 involved in a brewery business? 4 Yes, sir. I owned a micro-brewery in Little 5 Rock, Arkansas. 6 Q And when did you own that business? What 7 period of time? 8 A Sir, I'm not sure. It closed down, I believe, in 1986. Probably from '82 or '83, up 9 10 around '85 to '86. 11 It operated around three years, I believe. 12 Q Did you have any partners in that business? 13 A At one time, I did. I originally started 14 with a partner -- Scott Riley. And he got out of it and we changed the name to the Arkansas Brewery 15 16 Company. 17 Very small. I'm talking about three or four 18 people employed by the brewery. Mr. Lyon, I would like to go over the 19

outline of the matters we are going to inquire into

This deposition is being conducted pursuant

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today.

13 1 to Senate Resolution 120. The resolution establishes 2 a special committee administered by the Banking 3 Committee to conduct an investigation involving 4 Whitewater Development Corporation, Madison Guaranty 5 Savings and Loan Association, Capital Management 6 Services, Incorporated, the Arkansas Development Finance Authority, and other related matters. 7 8 Section 1(B(3)(a) and (b) of Senate 9 Resolution 120 authorizes an investigation and public hearings into, A, the operation, solvency and 10 11 regulation of Madison Guaranty Savings and Loan 12 Association and any subsidiary, affiliate, or other 13 entity owned or controlled by Madison Guaranty Savings and Loan Association; B, the activities, 14 investments, and tax liability of Whitewater 15 16 Development Corporation, and as related to Whitewater Development Corporation, of its officers, directors 17 18 and shareholders. 19 You were requested to testify earlier this 20 month. This deposition is being taken in advance of a public hearing which may occur in early 1996. 21 We will be asking you a series of 22 14 questions. You've agreed to testify under oath. If 1 2 you do not understand a question, let us know and we 3 will rephrase the question. The stenographer is preparing a record of 4 5 the questions and answers. The deposition will be treated as Committee Confidential until the 6 7 commencement of the hearings. 8 Prior to the hearings, you will receive a letter from the Committee telling you that you may 9 10 come to the Senate to review the transcript of your 11 deposition and make note of any corrections for 12 transcription on an errata sheet. 13 I note for the record that you are in 14 Arkansas and, as a result, the Committee can make 15 some arrangements to have you review that transcript 16 in Arkansas, and we can talk about that after the deposition, or at some subsequent point. 17 18 I understand, sir, and I appreciate not having to go to Washington. It would have been around 19 a 28-hour day for me, had it revolved around what you 20

If you are called ultimately to testify at

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all were talking about doing.

15 1 a public hearing, you will be permitted to have a copy of your deposition transcript four days in 2 3 advance of your testimony. 4 You may be represented by counsel, and I 5 note for the record that you have Mr. Mays there as 6 your counsel. 7 Objections to the form of questions will be 8 noted for the record. Counsel may object on the 9 grounds of privilege or relevance. The Committee 10 Chairman may rule on objections where the Witness 11 refuses to answer a question. 12 Do you have any questions at this point 13 about the procedure? 14 No, sir, I do not. You can ask me whatever 15 you wish. I will tell you the truth. 16 Okay. Now going back to 1983, with respect 17 to the brewery, do you have any documents or records with respect to that brewery currently in your 18 19 possession? 20 Α I hope I don't. 21 Now, did you speak to anyone other than 22 your counsel with respect to the substance of your 16 1 testimony here today? 2 I do not know what substance of testimony 3 means, sir. 4 Well, did you talk to anybody other than 5 your attorney about what you would be testifying to, 6 today? 7 I had no idea what I would be testifying A 8 to, really. The way it was worded to me, after Mr. Mays asked, was it was about Castle Grande, the 9 brewery, Madison Guaranty, and all related matters. 10 11 That includes everything in the world. 12 Okay. So you understand that. And you have 13 not talked to anyone else other than your attorney about the substance --14 15 Α My wife. 16 Pardon me? 0 17 I've talked to my wife. I told her. Α 18 0 Okay. Anybody else other than those two

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people?

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No. sir.

When did you first hear of a proposal to

develop a brewery on the Castle Grande property?

17 1 Sir, I'm not sure of the date. And I'm not 2 very good with dates. It was somewhere between the 3 period that -- I would say between '83 and '86. Who approached you about a proposal to 4 5 develop a brewery on the Castle Grande property? 6 James McDougal. 7 Now at the time he approached you, you 8 already owned this micro-brewery. 9 Correct? That's correct. 10 In another part of Little Rock. 11 0 12 Α Yes, sir. Now, please understand, and if 13 you gentlemen will bear with me. I have never been able to explain the location of where we're talking 14 15 about. 16 If you will draw a straight line and put a 17 circle at the top of that line, that's Little Rock. If you put one in the middle, that's Castle Grande. 18 If you put one at the bottom, that's Maple Creek. 19 20 Castle Grande was not in Little Rock. Okay. So you had a brewery in Little Rock 21 22 and Mr. McDougal approached you about putting a 18 1 brewery on the Castle Grande property. 2 Yes, sir. Α 3 How long had you been in business with the micro-brewery in Little Rock at that point? 4 5 Probably a little over two years. Α 6 And what did McDougal say to you about this 7 proposal when he first came to you with the idea? 8 MR. MAYS: Let's stop. Let's stop right 9 here. Did you not have the brewery first? 10 MR. GICALE: Let's go off the record for a 11 moment. 12 (Discussion off the record.) MR. GICALE: Let's get back on the record. 13 14 BY MR. GICALE: Mr. Lyon, could you please describe your 15 first contact with Mr. McDougal with respect to your 16 17 brewery? 18 The first contact was that I borrowed the

Q And this is the brewery in Little Rock, the micro-brewery.

money in order to put the brewery in from Madison

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22

Guaranty.

19 1 Correct? 2 A Yes, sir. 3 You borrowed that from Madison Guaranty. 0 4 Α Yes, sir. 5 How much money did you borrow? O 6 Α I believe I borrowed \$100,000. 7 0 Who arranged that loan for you at Madison 8 Guaranty? 9 I don't know who arranged it. He arranged 10 it, I guess. I forget who the loan officer was that 11 handled it. 12 Q Was it Mr. McDougal who arranged the loan? 13 Well, I talked to Mr. McDougal about it, 14 yes. And then, when I borrowed the money, it was 15 through a loan officer of the bank. 16 I take it, then, that you knew Mr. McDougal 17 prior to talking to him about this loan. 18 Yes, sir. Mr. McDougal and I were in 19 college together. He lived in a fraternity house next to where I lived and I sold sandwiches at night in 20 21 order to get through school. 22 So, basically, I was in every room on that 20 1 campus every night, including his. 2 Did you continue to maintain a social or business relationship with Mr. McDougal after 3 4 college? 5 No, sir. In fact, after college, I probably 6 didn't see him for the next 20 years or so. He came 7 through one time with Senator Fulbright campaigning. 8 But other than that, I didn't see him 9 socially or any other way. He was in Washington, I 10 think. 11 How was it you came to approach him about 12 borrowing the money for the micro-brewery? 13 He bought a bank in Kingston, Arkansas -well, let's go back a little bit. 14 15 He called me when he was President 16 Clinton's -- on his staff, his top aide, and asked if 17 I would be on a state bank board. And I told him that 18 I would. 19 Later on, he called and told me that he had 20 bought a bank in Kingston, Arkansas and stop in and

see him some time. And going to a Razorback ballgame

in Fayetteville, my wife and I did stop and see the

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		21
1	bank at that time.	
2	So	
3	Q So when was it that he called you to ask	
4	you to be on the state bank board?	
5	Do you recall the date? The year?	
6	A I think, sir, it was sometime it was	
7	Governor Clinton's first term. I believe it was	
8	sometime in 1982.	
9	Once again, I'm not very good on dates and	
10	it was a long time ago.	
11	Q So it was subsequent to that that he told	
12	you he bought a bank in Kingston or the Kingston	
13	bank.	
14	A Yes, sir.	
15	Q And then, you subsequently met him after he	
16	bought that bank.	
17	A Yes, sir.	
18	Q And then, what subsequent contact did you	
19	have with him?	
20	A When he started Maple Creek, which was a	
21	lot closer, he called and asked me to stop in and see	
22	it. And so I did.	
		22
1	Q Now Maple Creek was	22
1 2	Q Now Maple Creek was A Was before Madison, in Little Rock.	22
	A Was before Madison, in Little Rock.	22
2		22
2	 A Was before Madison, in Little Rock. Q Maple Creek was a development. A Yes, sir. 	22
2 3 4	 A Was before Madison, in Little Rock. Q Maple Creek was a development. A Yes, sir. Q A housing development? 	22
2 3 4 5	 A Was before Madison, in Little Rock. Q Maple Creek was a development. A Yes, sir. Q A housing development? A A housing development. 	22
2 3 4 5 6	 A Was before Madison, in Little Rock. Q Maple Creek was a development. A Yes, sir. Q A housing development? A A housing development. Q He asked you to stop in to see it, for what 	22
2 3 4 5 6 7	 A Was before Madison, in Little Rock. Q Maple Creek was a development. A Yes, sir. Q A housing development? A A housing development. 	22
2 3 4 5 6 7 8	A Was before Madison, in Little Rock. Q Maple Creek was a development. A Yes, sir. Q A housing development? A A housing development. Q He asked you to stop in to see it, for what purpose?	22
2 3 4 5 6 7 8	A Was before Madison, in Little Rock. Q Maple Creek was a development. A Yes, sir. Q A housing development? A A housing development. Q He asked you to stop in to see it, for what purpose? A Mainly because he was proud of it.	22
2 3 4 5 6 7 8 9	A Was before Madison, in Little Rock. Q Maple Creek was a development. A Yes, sir. Q A housing development? A A housing development. Q He asked you to stop in to see it, for what purpose? A Mainly because he was proud of it. Q And then what contact did you have with him	22
2 3 4 5 6 7 8 9 10 11 11 12	A Was before Madison, in Little Rock. Q Maple Creek was a development. A Yes, sir. Q A housing development? A A housing development. Q He asked you to stop in to see it, for what purpose? A Mainly because he was proud of it. Q And then what contact did you have with him after seeing that development? A That development I had some contact with him.	22
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2 3 4 5 6 7 8 9 10 11 11 12 13 14	A Was before Madison, in Little Rock. Q Maple Creek was a development. A Yes, sir. Q A housing development? A A housing development. Q He asked you to stop in to see it, for what purpose? A Mainly because he was proud of it. Q And then what contact did you have with him after seeing that development? A That development I had some contact with him. Q Did you become involved in that	22
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2 3 4 5 6 7 8 9 10 11 11 12 13 14	A Was before Madison, in Little Rock. Q Maple Creek was a development. A Yes, sir. Q A housing development? A A housing development. Q He asked you to stop in to see it, for what purpose? A Mainly because he was proud of it. Q And then what contact did you have with him after seeing that development? A That development I had some contact with him. Q Did you become involved in that development? A No, not really. I wasn't involved in that development. But when I was up there you know, I'm in timber country. And I looked over and he was burning up timber, piling. They stored it with a	22

23 1 it. And he said, well, why don't you sell it? And I 2 said, well, I'll be glad to and let you have half of 3 it. 4 He told me at that time he really didn't 5 want half of it. He just wanted it out of the way. 6 And so, the contact with him I had a little bit at 7 Maple Creek was we attempted to remove some timber 8 from Maple Creek. 9 It was a very bad deal for us because he 10 had other loggers in there and we would go up and 11 mark the trees to be cut. By the time we would get 12 there, they were already cut. 13 So I took a hit on that. Not a big one, but 14 I took one. 15 Q And you're talking a financial hit. 16 Α Yes, sir. 17 0 All right. And then, did you have any 18 subsequent business or social dealings with Mr. 19 McDougal? 20 Α I had -- my social dealings with Mr. 21 McDougal were basically, I'd see him in the bank 22 every once in a while. We ate lunch, once in a 24 cafeteria, once in a road ditch. 1 2 We had a sandwich and Coke together. 3 Now which bank are you referring to at this 4 point? 5 By this time, he built Madison Guaranty. A 6 Q So you had subsequent meetings with him or 7 you saw him at Madison Guaranty. 8 Α Yes, sir. 9 0 All right. Now those were business or 10 social meetings? 11 They were business. I was in the bank 12 conducting my business for the brewery. 13 And was it at this point in time that you obtained, sought his assistance in obtaining 14 15 financing for the brewery? Well, I had already talked to him about the 16 17 brewery and I had the loan for the brewery, I assume, in the time period that you're talking about. 18 19 The brewery was there. 20 When I was seeing McDougal off and on was 21 only when I was in the bank because of the brewery,

22

in the business of the brewery.

		25	
1	Q	Okay. So that you were seeing him	
2	subsequ	ent to obtaining financing from the bank for	
3	the brev	very.	
4		Correct?	
5	Α	I don't understand the word subsequent. I'm	
6	sorry.		
7	Q	You were seeing him after you obtained the	
8	loan for	the brewery.	
9	Α	Yes, sir, that's correct.	
10	Q	And again, the loan was for \$100,000.	
11	Α	The original loan was for \$100,000, yes,	
12	sir.		
13	Q	Did that change with time? Did that	
14	increase		
15	Α	It increased a great deal with time.	
16	Q	How did it change?	
17	A	The change is we added to the brewery.	
18	Really,	we're not I say we. I really did not make	
19	any mor	ney out of the brewery.	
20		It changed to where it was over three times	
21	that mu	ch.	
22	Q	So over \$300,000 was borrowed from Madison	
		26	
1		ty for the brewery?	
2	Α	ty for the brewery? Yes, sir.	
2 3	A Q	ty for the brewery? Yes, sir. Do you recall the total amount?	
2 3 4	A Q A	ty for the brewery? Yes, sir. Do you recall the total amount? I'm not exactly sure. I've tried to be	
2 3 4 5	A Q A	Yes, sir. Do you recall the total amount? I'm not exactly sure. I've tried to be I knew this was coming.	
2 3 4 5 6	A Q A because	Yes, sir. Do you recall the total amount? I'm not exactly sure. I've tried to be I knew this was coming. I think that it was somewhere around	
2 3 4 5 6 7	A Q A because \$368,00	Yes, sir. Do you recall the total amount? I'm not exactly sure. I've tried to be at knew this was coming. I think that it was somewhere around 00.	
2 3 4 5 6 7 8	A Q A because \$368,00 Q	Yes, sir. Do you recall the total amount? I'm not exactly sure. I've tried to be at I knew this was coming. I think that it was somewhere around 00. And it was Mr. McDougal that made	
2 3 4 5 6 7 8 9	A Q A because \$368,00 Q arranger	Yes, sir. Do you recall the total amount? I'm not exactly sure. I've tried to be I knew this was coming. I think that it was somewhere around 00. And it was Mr. McDougal that made ments for this financing, at least initially?	
2 3 4 5 6 7 8 9	A Q A because \$368,00 Q arranger A	Yes, sir. Do you recall the total amount? I'm not exactly sure. I've tried to be at knew this was coming. I think that it was somewhere around bo. And it was Mr. McDougal that made ments for this financing, at least initially? Initially, yes, sir. Later on, I talked to	
2 3 4 5 6 7 8 9 10 11	A Q A because \$368,00 Q arranger A Don De	Yes, sir. Do you recall the total amount? I'm not exactly sure. I've tried to be I knew this was coming. I think that it was somewhere around OO. And it was Mr. McDougal that made ments for this financing, at least initially? Initially, yes, sir. Later on, I talked to enton, who was the loan officer. I remember him.	
2 3 4 5 6 7 8 9 10 11 12	A Q A because \$368,00 Q arranger A Don De He had	Yes, sir. Do you recall the total amount? I'm not exactly sure. I've tried to be I knew this was coming. I think that it was somewhere around Oo. And it was Mr. McDougal that made ments for this financing, at least initially? Initially, yes, sir. Later on, I talked to enton, who was the loan officer. I remember him. several loan officers in the bank.	
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2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19	A Q A because \$368,00 Q arrangel A Don De He had Q that you A who. Q A Q	Yes, sir. Do you recall the total amount? I'm not exactly sure. I've tried to be a I knew this was coming. I think that it was somewhere around Oo. And it was Mr. McDougal that made ments for this financing, at least initially? Initially, yes, sir. Later on, I talked to enton, who was the loan officer. I remember him. several loan officers in the bank. Did you deal with any other loan officers a recall? I'm sure that I was, but I don't remember Were these secured loans? They were paid. But was there any security pledged for the	
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20	A Q A A because \$368,00 Q arranger A Don De He had Q that you A who. Q A Q loans, reference to the control of t	Yes, sir. Do you recall the total amount? I'm not exactly sure. I've tried to be at knew this was coming. I think that it was somewhere around Oo. And it was Mr. McDougal that made ments for this financing, at least initially? Initially, yes, sir. Later on, I talked to enton, who was the loan officer: I remember him. several loan officers in the bank. Did you deal with any other loan officers a recall? I'm sure that I was, but I don't remember Were these secured loans? They were paid. But was there any security pledged for the real estate or something else?	
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19	A Q A because \$368,00 Q arrangel A Don De He had Q that you A who. Q A Q	Yes, sir. Do you recall the total amount? I'm not exactly sure. I've tried to be a I knew this was coming. I think that it was somewhere around Oo. And it was Mr. McDougal that made ments for this financing, at least initially? Initially, yes, sir. Later on, I talked to enton, who was the loan officer. I remember him. several loan officers in the bank. Did you deal with any other loan officers a recall? I'm sure that I was, but I don't remember Were these secured loans? They were paid. But was there any security pledged for the	

1 All loans were paid off. 2 But when you initially obtained the loans. 3 did you have to put up some security? 4 For instance, a piece of real estate or the 5 brewery itself? 6 I told you that the loans were secured. 7 What were they secured with? 0 8 A They were secured with property. 9 Q Real property? 10 Α Yes, sir. 11 0 And anything else? 12 I don't really remember what all they were 13 secured with, sir, but they were secured. 14 Okay. But was the real property the 15 property where the brewery was located or was it 16 secured by some other real estate? 17 It was secured by some other real estate that I loaned. The equipment on the brewery was also 18 19 involved. The bank stock -- my bank stock was involved. Life insurance policy was involved, with 20 21 cash value. 22 The loans were secured. 28 1 Now subsequent to obtaining the loans for 2 the brewery for Madison Guaranty, did you have any 3 other business dealings with Mr. McDougal, subsequent to or during the time that you had the various loans 4 5 at Madison Guaranty? 6 Yes, sir. I told you that I attempted to 7 log Maple Creek before Madison Guaranty was actually 8 in Little Rock and built. 9 Okay. But other than Maple Creek, did you 10 have any other business dealings with Mr. McDougal 11 during this time period? 12 A No. sir. 13 Now while you owned this brewery, did you 14 have some conversations with Mr. McDougal about a 15 brew pub? 16 Yes, sir. Apparently, I did. I do not 17 remember it, but feel sure that I did have a

what did you say to him? Okay. Let me just explain. A brew pub is simply that you're able in a restaurant, if you're

How did that conversation come about? And

conversation with him about it.

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29 brewing your own beer, that you can also have a 1 2 restaurant. 3 At that time, it was illegal in the State 4 of Arkansas. We had a system where you had -- it was 5 set up for large breweries. And I fought the war and 6 lost. Now, having a brew pub in Arkansas is legal. But I thought that the brewery might make it, 8 might survive, if you we could get a law to have a 9 brew pub. 10 11 I had a little area upstairs in the brewery 12 that we could put in a sandwich shop and sell 13 sandwiches and beer and maybe generate some cashflow. 14 So I talked to Senator Jim Scott, who is a 15 local senator in Warren, Arkansas, about 25 miles 16 from here. I feel sure, even though I do not remember, that I did talk to McDougal because it 17 18 makes sense for me to because he had clout with 19 Governor Clinton and state government. 20 O He had, what? 21 Clout. A Q 22 Oh, clout. 30 1 A Yes, sir. 2 He told you he had clout with the governor. 0 3 Is that correct? 4 I knew he had clout with the governor. Α 5 All right. So you talked to McDougal. You 6 believe you talked to McDougal and you talked to 7 senator --8 Scott. Α 9 O Scott. About --10 I talked to the ABC attorney. I don't 11 remember his name -- in trying to get them to pass a law saying it would be legal in the State of 12 13 Arkansas. 14 It was in many states at that time. 15 Now just to clarify this, what would be 0 legal? What did you want to be legal? 16 17 A brew pub. Α A brew pub on the premises of a brewery. 18 0 19 Α Yes, sir. 20 Now what did Scott and/or McDougal do for 0

you with respect to that law?

Senator Scott put legislation through the

21 22

Α

		31
1	system to try to get a brew pub in.	
2	Q So he submitted a bill to the assembly?	
3	A However they do it, yes, sir.	
4	Q Did he show you a copy of the bill before	
5	he submitted it?	
6	A No, sir.	
7	Q Did you ever see a copy of the bill?	
8	A No, sir.	
9	Q Do you recall whether or not it called for	
10	allowing beer manufacturers to sell beer at retail in	
11	restaurants located on the premises of a	
12	manufacturing facility for consumption on the	
13	premises?	
14	A No, but that sounds like the language they	
15	would probably use in describing the brew pub.	
16	Q Okay. Do you know whether or not it went	
17	further and allowed for sale of beer at retail in	
18	restaurants for consumption off the premises and at	
19	wholesale to licensed retailers of alcoholic	
20	beverages?	
21	Do you recall that?	
22	A No six I don't recall the language I	
22	A No, sir. I don't recall the language. I	
		32
1	never did really see the language. It didn't get very	32
1 2	never did really see the language. It didn't get very far.	32
1 2 3	never did really see the language. It didn't get very far. Q Okay. Well, what happened with that bill?	32
1 2 3 4	never did really see the language. It didn't get very far. Q Okay. Well, what happened with that bill? A I do not know, except that it did not pass.	32
1 2 3 4 5	never did really see the language. It didn't get very far. Q Okay. Well, what happened with that bill? A I do not know, except that it did not pass. I was told by the ABC that's the Arkansas Beverage	32
1 2 3 4 5 6	never did really see the language. It didn't get very far. Q Okay. Well, what happened with that bill? A I do not know, except that it did not pass. I was told by the ABC that's the Arkansas Beverage Control Board that I could have a tasting room.	32
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regulatory restrictions on your proposal?

A No, sir.

Q Did he tell you that he had written a letter in December of 1984 to Betsy Wright, indicating to Betsy Wright that Governor Clinton had made a commitment concerning this bill, which he needed to discuss with her?

A I do not know Betsy Wright, no, sir.

Q Did McDougal ever tell you that Clinton had made a commitment to him concerning the bill that you talked to Senator Scott about?

A No. sir.

12 Q Did McDougal tell you that he had talked to 13 the governor or the governor's office on behalf of 14 that bill?

A Not to my knowledge, no, sir.

Q Did McDougal tell you that anyone else had gone to see the governor or someone from the governor's office in support of this bill?

A No, sir. The man that I was really working through was my local state senator, who is a friend of mine.

Q And that would be Senator Scott.

A Yes, sir.

Q Were you told by Senator Scott or Mr.

McDougal that the bill was withdrawn from the assembly?

A I was told by Senator Scott that the bill was withdrawn.

Q Did he tell you why it was withdrawn?

A Basically, he said that he didn't think that he could get it through at that time. We would try later on.

What I need to do is go talk to the ABC and see if maybe they couldn't give us a little support on it.

Q Well, did you do that?

A Yes, sir, I did that.

Q Who did you talk to at the ABC?

A The attorney there. He's been there for years, and I forget his name.

Q Is he still there?

A I'm sure he is. If you want to know how a cow eats a cabbage, you ask him.

Q So after Scott told you he didn't think he

35 1 could get it through, you went to the attorney at ABC 2 to see what he could do in terms of regulation. 3 Correct? 4 A I had been working with the ABC also, along with Senator Scott, sir, and anybody else that I 5 6 thought might influence or help me get that bill 7 through because I was floundering. I thought at that time if I didn't get that 8 bill, that I was going to hit financial disaster. And 9 10 it did prove correct. 11 I hit it. 12 Now I'm going to represent to you that a bill submitted by Senator James Scott which provided 13 14 that beer manufacturers licensed by the Arkansas 15 Alcoholic Beverage Control Board may sell beer at 16 retail in restaurants located on the premises of such 17 manufacturing facilities for consumption on the premises, amongst other things, was withdrawn on 18 19 February 18th, 1985. 20 And I'm going to further represent to you 21 that two days later, on February 20th, 1985, the 22 Arkansas Alcoholic Beverage Control Board promulgated 36 a regulation providing in part that any winery, 2 brewery, distillery or rectifying plant operating 3 within the State of Arkansas and licensed by the 4 Alcoholic Beverage Control Division is authorized to 5 maintain a tasting room on their licensed premises. 6 where samples of their products can be given to 7 persons touring such facilities. 8 Is that the regulation that you earlier 9 were referring to? 10 That is exactly what I told you happened. 11 0 Okay. And do you recall it happening within 12 two days of --13 Not within two days. They gave us a tasting room, which, financially, didn't help anybody at all. 14 15 Although it was more than you had before 16 you went into this process. 17 Correct? 18 It was less than I had, sir. It just 19 allowed me to give the beer away. 20 What was the process that you went through,

other than talking to the ABC lawyer?

Were there hearings or did you have to go

before a board for the regulation?

- A Sir, in all honesty, that man was the board.
- Q And was this what he told you he could give you at that point in time?
 - A Yes, sir. And I thanked him.
- Q Now did he tell you whether or not McDougal had been in touch with him with respect to this regulation, to promulgating this regulation?
 - A No.

- Q Did he tell you whether or not he had had any contact with the governor or the governor's office with respect to the promulgation of this regulation?
 - A No. sir.
 - Q What's your answer?
 - A No. sir.
- Q Did he tell you who he had discussed the regulation with?
 - A No. sir.
- Q Now at what point in time did Mr. McDougal talk to you about constructing a brewery and possibly a tasting room at Castle Grande?

A I would imagine it was about that period of time, somewhere in 1985 or late 1984. He really -- at Castle Grade, they had a large shed. In other words, it had a roof. It was a metal shed with no sides and a concrete floor, which really wasn't completed.

He told me that this building belonged to Mr. Seth Ward. Mr. Ward came by the brewery and got me and showed me the building and wanted to sell it to me.

Later on, McDougal talked to me about moving my brewery out there and putting in a large sporting goods store, or even more or less a dance hall, restaurant, and what have you.

He was grandiose. I like Jim McDougal, I really do. But he -- the world isn't always like he thinks it is.

I went out to look at it. In fact, he flew me to the bass pro shop in Springfield, Missouri, a large sporting goods store, to look at that operation. But nothing ever happened.

As I say, I was already in financial trouble. The brewery was losing money, quite a bit of

1 money for me. And I certainly wasn't going to risk 2 anything else in buying that building and doing all 3 the other.

It was like a real estate dealer trying to sell you something that you didn't want in the first place.

That's the best way I can describe it.

Did you tell him that you did not want to participate in that deal, or did you agree to look further into it?

I agreed to look at it. Sir, when you owe a man money, you don't want to piss him off.

Do you understand what I mean? I looked at 13 it, and then I found out it was even in a dry part of 14 15 the county. 16

So we couldn't have done it, anyway.

17 Q Well, did he indicate to you that he would assist you in obtaining some legal or regulatory 18 relief from the state that would allow you to build 19

this brewery and possibly have a tasting room or 20

21 restaurant on the premises?

A Yes, sir.

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Q And how did he tell you he was going to accomplish that?

Well, when I told him that it was in a dry county, he said that he could take care of that. The financing would be available.

You know, as I say -- you'd have to know him to really understand that he offered me many. many, many deals. But I knew who was going to end up paying for it.

Well, how did he tell you that he was going to take care of the regulatory problems, the restrictions on selling beer at a manufacturing facility?

Through his many years in government, state government, his friendship with Bill Clinton, I think Mr. McDougal thought that he could do anything.

Whether he could or not is debatable, but he thought it.

He thought that, and he told you that he could do that?

A Yes, sir.

O Specifically, did he tell you that he could get the regulatory restriction removed on selling liquor at a manufacturing facility -- selling beer at a manufacturing facility for beer, by talking to the governor?

A Yes, sir.

 Q And when the bill was ultimately withdrawn that we talked about earlier, by Senator Scott, did Mr. McDougal say that he could assist you with a regulation by the ABC board?

A He insinuated to me that he could take care of it, yes.

Q How did he insinuate to you that he could take care of it?

A Just said that he could take care of it, that he could get it done.

Q Did he tell you why the bill was withdrawn?

A No, sir.

Q So you were attempting to get this bill passed through Senator Scott for the brewery that you owed in Little Rock, and at the same time, Mr.

McDougal wanted you to invest in a brewery, move your

22 brewery to Castle Grande.

And so you were concerned about the restrictions on both places in terms of the manufacture of beer and the sale of it on premises.

Correct?

A Yes, sir.

Q Now once the regulation came down allowing a tasting facility, a tasting room on the premises, did you take any further steps to invest in the property at Castle Grande?

A No, sir.

Q Now I'm going to represent to you that we have a memorandum from Mr. McDougal to Seth Ward indicating in November of 1985, specifically November 20th, 1985, that you, Bill Lyon, would be taking two acres of "our best property, probably off the southeast quadrant, to immediately begin construction of the convenience store and gas station. This location will be determined at our planning meeting tomorrow.

"Subject to approval by the ABC, Bill will place his brewery in the shell building, along with a tasting room."

		43
1	And McDougal further goes on to say "I	
2	have spoken with the governor in this matter and	
3	expect it will be approved."	
4	Now, as I stated, this is a memorandum from	
5	McDougal to Seth Ward.	
6	Did McDougal make these representations	
7	MR. PORTNOY: Is there a date on that?	
8	MR. GICALE: It was November 20th, 1985.	
9	BY MR. GICALE:	
10	Q Did McDougal also make these	
11	representations to you?	
12	A Mr. McDougal tried to get me to put in a	
13	convenience store somewhere up there. That was one of	
14	the deals. He offered me a convenience store, a	
15	motel, the micro-brewery deal.	
16	You name it, it was out there.	
17	Q Well, by November of 1985, had you	
18	committed to him that you would be taking two acres	
19	of their property?	
20	A No, sir, I never committed to Mr. McDougal	
21	that I would be taking two acres of property.	
22	Q In November of '85, did you indicate to him	
		44
1	that you would be placing your brewery in the shell	44
2	building that you earlier described, along with a	44
2	building that you earlier described, along with a tasting room?	44
2 3 4	building that you earlier described, along with a tasting room? A No, sir, I did not because we didn't have	44
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1 not have any agreement with Jim McDougal to ever put 2 one in there. 3 Q Okay. Did he tell you that he had spoken to the governor on that matter and expected it would be 4 5 approved? 6 I do not --Α 7 MR. PORTNOY: What would be approved? MR. GICALE: Expect that the brewery in the 8 9 shell building with the tasting room would be 10 approved. THE WITNESS: He did tell me that he could 11 12 handle it. I do not know that he necessarily told me 13 that he spoke to Mr. Clinton about it. 14 But Mr. McDougal thought he could handle 15 anything through the state. 16 BY MR. GICALE: 17 Do you recall when you learned that the 18 proposed location for the brewery at Castle Grande 19 was in a township that was dry? I learned it from when I was talking to the 20 attorney at the ABC board. And I mentioned, you know, 21 the possibility of maybe moving out there when 22 46 McDougal first approached me about it. And he told me 1 2 that that part of the county was dry. 3 O So you mentioned to the attorney at the ABC 4 board that McDougal was talking to you about moving 5 your brewery to Castle Grande. 6 Α Yes, sir. 7 And it was the ABC attorney that first told 0 8 you that that township was dry. 9 Yes, sir. Α Do you recall when he told you that? 10 Q 11 . A 12 Q I'm sorry. I didn't hear the answer. 13 A No. sir. I do not recall when. Do you know if perhaps it was January or 14 Q February of 1986? 15 16 A Sir, I do not know. 17 Did you talk to McDougal about the fact 18 that the township was dry? Yes, sir, I did. 19 Α 20 What did he say about that? 0 21 He said that he could take care of it. Α

Did you tell McDougal about the

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47 1 conversation that you had with the ABC lawyer with 2 respect to the fact that it was dry? 3 I did not say I talked to Mr. so and so and 4 Mr. so and so told me that that part of the county 5 was dry. 6 I told Mr. McDougal that that part of the 7 county's dry. 8 Did McDougal appear to already know that at 9 the time you talked to him? 10 I do not believe he did know it. 11 Did McDougal ever tell you that he obtained 0 information from Seth Ward's attorneys at the Rose 12 13 Law Firm about whether or not beer could be 14 manufactured or sold in the township where Castle 15 Grande was located? 16 No. sir. he did not. 17 Do you know whether or not Mr. McDougal was 18 working with the Rose Law Firm to address this issue 19 with respect to the county being, the township being 20 dry? 21 Sir, at that time, I never heard of the 22 Rose Law Firm. 48 1 I do know that Mrs. Clinton was on retainer 2 through the bank. 3 O How did you know that? 4 Α He told me that. 5 Q Who told you that? 6 Jim McDougal told me that. Α 7 Q How did that come up? 8 He was bragging about it. Α 9 Q When did he brag about that? 10 I do not know when he did it. Α Well, how did he brag to you that she was 11 O 12 on retainer to the bank? 13 That he had Ms. Clinton on retainer and 14 that she was working at the bank. 15 I've never met Ms. Clinton, but he told me 16 that. 17 Did it come up --18 MR. PORTNOY: She was -- I'm sorry --19 working at the bank or for the bank? 20 THE WITNESS: Working for the bank. I never 21 saw her at the bank and I was in there at that time

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possibly once a week.

BY MR. GICALE:

Q Now when you say he was bragging about it, did it come up in discussions with respect to the brewery, or was it with respect to some other business deal that you had with him?

A No. Look, what it boils down to is whether, right or wrong, Jim McDougal thought that he owned Bill Clinton.

Now that's what it boils down to.

I don't know when he told me all of this, what year it was, but he did tell me that.

Q He told you that he owned Bill Clinton?

A That's correct.

MR. PORTNOY: In those precise words, sir? THE WITNESS: Yes, sir.

BY MR. GICALE:

Q Do you know whether it was at or about the time that you wanted this law changed for the brewery?

A No. That was before I wanted the law changed.

O And at the time he said he owned Bill

Clinton, did he also tell you that he had his wife working for him at the bank?

A Yes, sir.

Q After you told McDougal that the township where Castle Grande was located was dry, and after he told you that he could take care of it, do you recall what steps, if any, he took to take care of it?

A He did not take any steps, as far as I know, to take care of it. I told him that I did not want to do it.

Q Do you recall him every showing you any legal papers regarding ways of getting around this dry issue?

A No, sir. I would assume the only way to get around it would be to hold an election within that township.

But I do not know. He did not tell me how he could do it.

Q Well, did he ever tell you that you could make application to the Alcohol Beverage Control Board to change the status of this township from dry to a wet township?

51 1 A No. sir. 2 0 Did you know Seth Ward at that time? 3 The only way I knew Mr. Ward is he was trying to sell me the building or the shed. 4 5 Otherwise, I didn't know him at all. 6 Nice man. 7 0 So you did not have any dealings with the 8 Rose Law Firm. 9 Correct? 10 That's correct. Α On this brewery issue. 11 0 12 Correct? 13 A On any issue. 14 Q Did you talk to Seth Ward about the 15 brewery? 16 No. I did not. Α 17 Did you talk to Seth Ward about the fact 18 that the township was dry? 19 A No. sir. 20 Did you know whether or not the rose law 21 firm had recommended a way of proceeding on this 22 wet/dry issue? 52 1 Α No. sir. 2 Did you ever come to learn that the 3 Mitchell Law Firm in Little Rock, and specifically, an attorney by the name of Marcella Taylor at that 4 firm, subsequently worked on that issue? 5 6 Never heard of him. 7 Q Now earlier, you stated that you had loans at Madison Guaranty Bank for your micro-brewery in 8 9 Little Rock. And it was at the same time that 10 McDougal wanted you to invest in this building at 11 Castle Grande, and you didn't want to anger him. 12 Did he threaten you with respect to the 13 loans that you had at Madison Guaranty? 14 A No. sir. 15 Now during the time period that you were discussing this proposed law and the regulation that 16 17 occurred and your brewery in Little Rock and Mr. 18 McDougal's proposed brewery at Castle Grande, did you have any other business dealings with him, other than 19 the Maple Creek Farms timber project? 20

Yes, sir. I was logging the timber at

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Castle Grande.

Q And what was your arrangement with him there?

A My arrangement with him there is that he wanted to take -- it was a selective cutting, trees off of the -- he was going to make a subdivision out of it. He wanted the timber out of the way in certain areas

You would leave the larger trees, get the smaller. This is on the lots. Cut all of the trees out of the streets, et cetera.

Q And how would you be paid for that? Was that a 50/50 split, like he proposed earlier?

MR. PORTNOY: Actually, I believe the testimony was that the Witness proposed a 50/50 split, not Mr. McDougal.

MR. GICALE: Okay. BY MR. GICALE:

Q What was the financial arrangement for this venture?

A That particular -- I did not want to do it because -- he convinced me -- and he said, look, I know that you didn't do any good on Maple Creek. But

on this one, you will be the only one here.

So I told him that we would try it.

And I got a forester and a company and I told him that I wanted the timber merchandised. And when I say merchandised, I wanted the pilings, the piling at the higher price, the red oak, which he was burning up down there. Those trees are worth \$200 or \$300 apiece, merchandised and everything done exactly right.

So, then, he sold it to his company and they paid me.

Q Did you have any other business dealings with him during this time period?

A Not to my knowledge, no, sir.

MR. MAYS: Let's get off the record.

MR. GICALE: Off the record.

(Discussion off the record.)

MR. GICALE: Back on the record.

BY MR. GICALE:

Q Were you involved in any other matters with Mr. McDougal during this time period?

A Yes, sir.

55 1 Which other matters were you involved with 2 him in? 3 Α I was appointed and really, I was appointed 4 by Jim McDougal to the state bank board. 5 And that was, you said, 1982? 6 Yes, sir. I believe in 1982, Mr. McDougal 7 called me and asked if I would serve on the state 8 bank board. And I told him, ves. 9 It was a plum appointment, really. And he 10 told me that he would get Bill Clinton to appoint me. 11 And he did. 12 And you said you served on that from '82 13 through '86. 14 Correct? 15 No, sir. I believe that I served through 16 sometime in '84, '85, right in there. I'm not sure. I served under Mr. Clinton, his first term, 17 Governor White, and part of Governor Clinton's next 18 19 term. 20 I'm not sure of the dates. 21 Were you on the board during this time period that you were seeking regulatory relief for 22 56 1 the brewery? I do not remember, sir. I was asked to 2 3 resign from the board. 4 Q All right. When were you asked to resign from the board? 5 6 I wish to talk to my attorney. 7 MR. MAYS: Let's go off the record for just 8 a minute. 9 (Discussion off the record.) 10 BY MR. GICALE: When were you asked to resign from the 11 12 board? 13 I was asked to resign from the board during 14 Clinton's second term, after he defeated Governor 15 White. 16 Who specifically asked you to resign? 0 17 Mr. McDougal asked me to resign first. And 18 I told him that he no longer had anything to do with

the State of Arkansas. And he told me that he would

And within a month or so, the governor

have the governor ask me to resign. And I told him

that if he asked me to resign, I would.

19 20

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called me and asked me to resign, and I did.

Q Governor Clinton called you and asked you to resign?

A Yes, sir.

Q Did either Mr. McDougal or the governor give you a reason why they wanted you to resign?

A Sir, Mr. McDougal had a capital deficiency in his savings and loan. He was trying extremely hard to get a stock issue, a preferred stock issue through the State of Arkansas.

It was quite an unusual issue.

He came over and asked me to resign and to serve on the savings and loan board, that he was bound and determined to get the stock issue through so that he could get his capital increased.

It was a preferred stock deal. It was a neat thing. It was really a rip-off of the stockholders. And I told Mr. McDougal that I would not do it.

I did that for three reasons.

One, it made me madder than hell thinking that he could tell me how to vote at anything.

The other one, the banker does not like a savings and loan.

And the other one is it just flat wasn't right. So I told him that I wouldn't do it. And that's when he asked me to resign. I told him that he couldn't do that. And he told me that Governor Clinton, that he would get him to ask me to resign.

And that's what happened.

Q Now the savings and loan that you were referring to was Madison Guaranty.

A That's correct.

Q So he asked you to resign to get on to the state securities board.

Is that correct?

A No, sir. It was not the state securities board. I believe it's a state savings and loan board. I'm not sure what it was.

Anyway, it concerned savings and loan.

Q So he asked you to resign the bank board, state bank board, to get on to the state savings and loan board.

A That's correct.

59 1 And did he indicate to you that he could get you placed onto the state savings and loan board? 2 3 Yes, sir. Α 4 0 And he indicated he wanted you on the state 5 savings and loan board so that you could assist him in this preferred stock offering, vote for it. 6 7 Is that correct? 8 That's correct. 9 And did you tell him right away that you 10 would not do that, as soon as he suggested it? I told him, not no, but hell no. 11 And after you told him that, is that when 12 0 he said, well, then, I'm going to get you to resign? 13 I'm going to have you removed from the state bank 14 15 board. That's not what he said. He asked me to 16 A 17 resign from the state bank board. I told him that he couldn't do that. He 18 19 told me that he would get Governor Clinton to ask me. 20 and I told him that if he asked me, I would resign. 21 I wouldn't serve on the board. 22 How long after you had this conversation 60 1 with McDougal did the governor call you? 2 It was within a month or two. I really 3 didn't think that he would call me, sir. But he did. 4 And when the governor called you, what did 5 he say to you? He told me that Jim had indicated that if 6 7 he asked me to resign from the board, that I would do 8 so. And I told him that was correct. 9 And he said that he really did need the appointment because somebody contributed a large sum 10 of money. And Mr. McDougal had told me previously the 11 man from Augusta, a Collins or Collier, or what have 12 13 you, to his campaign. Mr. Clinton was very nice. He was a 14 gentleman about it. I was a gentleman about it. But 15 it pissed me off big time that he would do that. 16 Did he say anything else to you about it? 17 18 No. sir. Nor did he mention any campaign 19 contributions or what have you. That came from McDougal. He simply asked to 20 resign, told me that he needed the appointment and 21

how much he appreciated the fact that I had served,

1	and so on.
2	MR. PORTNOY: Can we, just to make that
3	clear.
4	Governor Clinton was not the one who said
5	to you that there was some big contributor involved.
6	That was from Mr. McDougal.
7	THE WITNESS: That came from Mr. McDougal
8	sir. Governor Clinton was very nice. He asked me to
9	resign.
0	BY MR. GICALE:
1	Q All right. And so that we are clear, could
2	you restate this?
3	What was it exactly the governor said to
4	you?
5	A The governor called me over at the bank and
6	he told me that Jim had indicated to him that I would
7	resign if he asked me to. And that he appreciated it
8	very much because he really needed the position to
9	fill an obligation.
20	He thanked me for serving and asked that I
21	send a letter in, and I did. And that was that.
22	Q Now when you say that he called you at the
1	hands which hands did be call you at0
1	bank, which bank did he call you at?
2	A He called me at the Pine State Bank.
2	A He called me at the Pine State Bank. Q Now did McDougal tell you that the governor
2 3 4	A He called me at the Pine State Bank. Q Now did McDougal tell you that the governor was going to be calling you on this?
2 3 4 5	A He called me at the Pine State Bank. Q Now did McDougal tell you that the governor was going to be calling you on this? A He told me, yes, the day that he asked me
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63 1 McDougal talked to you about? 2 None whatsoever, sir. Α 3 0 Did you have any further conversation with 4 the governor at that point? 5 No. sir. Α 6 Did you submit your resignation shortly 0 7 thereafter? 8 Α Yes, sir. 9 0 Did you talk to McDougal about the call you 10 had from the governor? 11 A No. sir. 12 0 Did you ever talk to McDougal again about 13 the resignation or the request of the governor to 14 resign? 15 Α I did not. 16 MR. MAYS: Please. 17 MR. GICALE: I'm sorry. Do you want to go 18 off the record for a minute? 19 Do you want to go off the record? 20 MR. MAYS: Yes. 21 MR. GICALE: Okay. 22 (Discussion off the record.) 64 1 BY MR. GICALE: 2 As a member of the bank board, did you have 3 any responsibility for savings and loans? 4 No. Α 5 So you would not have had any 6 responsibility for Madison Savings and Loan. 7 A No. sir. 8 Madison Guaranty. I'm sorry. 0 9 Whatever. Any of that stuff. Α 10 You did not have oversight responsibility 0 11 for that bank. 12 Correct? 13 I do want to say that Mr. Mays is right. I'm really not sure what board. I've forgotten. But I 14 15 do know it concerned savings and loan. I do not think 16 it was the securities board or what have you. 17 I don't know. 18 But the point is that Mr. McDougal wanted 19 you to resign your position to move to some other

position which would allow you to make a decision on

his preferred stock offering.

Is that correct?

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- 1 Yes, sir, that's right.
- 2 Were you on the bank board at the point in 3 time when McDougal owned Madison Bank and Trust.

which was the Bank of Kingston, I believe?

- 5 Yes, sir. I was on the bank board at the 6 time that they bought the Kingston Bank.
- 7 Were you aware of a cease and desist order 8 on that bank, the Bank of Kingston, that the Federal 9

Home Loan Bank Board had with that bank?

- Yes, sir, I was. 10 Α
- 11 Were you involved in that at all? 0
- 12 No, not really. The bank commissioner is Α
- the one that issued that order. 13
 - 0 The state bank commissioner?
- 15 Α Yes, sir.

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- 16 Q Who was that at the time?
- 17 Α Marlin Jackson. And I say Marlin Jackson.
- I believe that's who it was. 18
- 19 Do you recall why a cease-and-desist order 20 was issued on that bank?
- 21 Yes, sir.
- 22 0 What were the reasons?

- 1 They were loaning too much money, mainly to 2 politicians, without collateral.
- 3 They were loaning money from out of the 4 territory of the bank.
- 5 Q Do you recall which politicians they were
- 6 lending the money to without collateral?
- 7 I recall one very definitely, sir.
- 8 0 Who was that?
- 9 Mr. Clinton. Α
- Q Mr. Clinton? 10
- 11 A Mr. Clinton.
- 12 O How did you learn that?
- 13 Α Through the newspapers.
- 14 0 Through the newspaper, at the time that you 15 were sitting on the board or at some later point?
- 16 At some later point.
- 17
 - But did you know about it at the time that
- 18 you were on the board and at the time that the ceaseand-desist order was issued? 19
- 20 Somehow, some way, I did know, and it's
- 21 probably by being on the state bank board that I was 22 told that and who they loaned the money to, and why

A No, we did not vote on it. The bank

Did you have to vote on the cease-and-

No, sir, I do not.

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desist order?

commissioner issued it. 1

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What was your role or responsibility as a member of the bank board?

A You would vote on various -- whether people could put branches in, different things concerning the bank.

The board itself is more or less a dog-andpony show, sir. The main work is done by the bank commissioner and his staff of examiners.

And they make recommendations to the board for decision-making?

The board votes on various things, like if you would be allowed to put a branch bank at this location. If you will be allowed to open a bank at a certain town, to charter a bank.

There are many different things that come up. I've seen them argue all day long over three feet, how close one bank was to the other.

19 When the cease-and-desist order was 20 entered, were there any concerns about McDougal's 21 activities at the Bank of Kingston?

The only concern that I heard was expressed

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1 by another person on the board, in that they didn't 2 know what the hell they were doing up there.

It was not basically discussed as a meeting. What I'm telling you is hearsay. I have a very vague memory from a long time ago.

But the they that you're referring to includes McDougal.

Yes. Α

Now at about that time, McDougal had stock in the Bank of Kingston, had an ownership interest in that, and then at about the same time, or subsequently thereafter, he acquired an interest in

13 Madison Guaranty.

Is that correct?

Α Yes, sir.

Was there any discussion about his ability to have an ownership interest in this Bank of Kingston which was subject to a cease-and-desist order, and then a discussion about perhaps recommending a prohibition against him acquiring an

interest in Madison Guaranty Savings and Loan? 21

22 Α No. sir.

MR. PORTNOY: Could we clarify? I believe Mr. Lyon testified earlier that the board he served on had no regulatory authority over S&Ls.

MR. GICALE: I understand that. But --

MR. PORTNOY: But you're asking him about whether there was any discussion of doing something that wasn't within their authority. And I just want the record to be clear.

MR. GICALE: Okay. BY MR. GICALE:

Q Well, could you have -- if you were aware that there were some concerns -- someone who had an ownership interest in a bank regulated by the bank commission, if you, as a member of the board, were aware of some problems with someone who had an ownership interest in a state bank, you were aware of that. And then you found out that they were about to acquire an interest in a savings and loan, was there a means of conveying that information to the savings and loan regulators in the state, or the Federal Home Loan Bank Board, or the governor?

A Not to my knowledge, no, sir. We had

absolutely nothing to do with any federal or state savings and loan.

That was completely separate and different.

They had no power at all over that.

They might do it as a matter

They might do it as a matter of policy. It might be conveyed, say, by the bank commissioner to the governor. But other than that -- the savings and loan that became Madison Guaranty, I don't know where it is. It's up near Augusta, Arkansas. But it was

10 dead in the water, anyway.

11 I mean, he really d

I mean, he really didn't buy anything but a charter.

Q Did McDougal ever indicate to you that he had any influence over Marlin Jackson?

A Sir, nobody had any influence over Marlin Jackson. A very fine bank commissioner.

Q Did McDougal ever indicate to you that he had influence over him? Or did he brag to you about some influence he had with Marlin Jackson?

A No, sir.

MR. GICALE: Off the record for a minute.

22 (Discussion off the record.)

73 1 MR. GICALE: Back on the record. 2 THE WITNESS: Yes, sir. 3 BY MR. GICALE: 4 O Now, again, just to clarify something 5 because you made a statement and then, in an 6 off-the-record discussion, there was some further 7 discussion about what specifically you recalled 8 McDougal telling you. 9 But what today is your best recollection of 10 what Mr. McDougal told you about why he wanted you to 11 resign from the state bank board? 12 A He wanted me to resign from the state bank board because he was interested in getting his stock, 13 a preferred stock deal for Madison in the regulatory 14 process -- he wanted me to be there to vote on it. 15 16 So he wanted to get you appointed to some 17 position that would allow you to vote on it, or 18 assist him in getting that preferred stock issue 19 through the regulatory process. Correct? 20 A That's correct 21 22 And do you recall today with any certainty 74 1 what position he wanted you to take after you 2 resigned from the bank board? 3 A No, sir. It was on the savings and loan 4 board, is all that I know. 5 However they route stock issues through, 6 whatever that is, would have been the board it was. 7 And I do not remember what board it was. And it was after you refused to do that, 8 9 that he told you that he would have the governor ask 10 you to resign. 11 Correct? 12 He said the governor would ask me to 13 resign, yes. 14 Did Mr. McDougal indicate to you that if you resigned from this bank board, that he could get 15 you on to this other board or in this other position 16 17 so that you could assist him in obtaining this preferred stock? 18 19 It was just a statement of fact that he 20 could do it, ves.

Did he tell you how he could do it?

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O

No. sir.

Α

75 1 Q Did he tell you that the governor could 2 assist him in doing that? 3. A No. sir. 4 MR. GICALE: I don't believe I have 5 anything further at this point. 6 Mr. Portnoy will now be asking you some 7 questions, Mr. Lvon. 8 THE WITNESS: Yes, sir. 9 **EXAMINATION** 10 BY MR. PORTNOY: 11 O Good afternoon, sir. A It may be for you, but it isn't for me. 12 13 (Laughter.) I'll try to be more precise with my 14 15 questions than I appear to have been with my 16 salutation 17 You knew Mr. McDougal since college, you 18 said? 19 A Yes, sir. Q Would you describe him as a wheeler-dealer 20 21 type of person? 22 Yes, sir. A 76 He always had some kind of project or 1 2 scheme in mind? 3 That's correct. He always had a deal for 4 you. 5 Q Sort of a salesman-type? 6 Α Absolutely. 7 0 Would you say that he was prone to 8 exaggerate? 9 Α Yes, sir, very much so. 10 0 And to brag? 11 Α Brag. 12 When Mr. McDougal said to you that he could 13 fix any problem you might have with respect to your brewery, did you view that as bragging? 14 15 Not necessarily. You thought there was some chance he might 16 17 actually be able to help you? Well, he put me on the bank board and he 18 19 took me off of it.

When you see it, you see it.

was it, sir? Or never moved to Castle Grande.

Now, your brewery project was never built,

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1 Oh, no, sir. No, sir. All of the questions 2 concerning that, it's just a real estate man to me 3 trying to sell me a building and to promote me buying 4 that building. But nothing ever happened on that. 5 6 And there was never a bill passed by the 7 legislature, to your knowledge, to somehow make it 8 possible for you to have a brew pub. 9 That's correct. Or allow me any really 10 special deal whatsoever. And there were never any regulations passed 11 12 by the ABC -- the Alcoholic Beverage Commission --13 which would have allowed you to have a brew pub. Were there, sir? 14 15 That's correct. 16 There was this tasting room regulation that 17 you mentioned. But you said that didn't help you 18 much. 19 Α That didn't help me any. 20 So you didn't think that that was special 0 21 treatment. 22 No. I did not feel that I received any 1 special treatment. 2 You indicated that the lawyer that you 3 spoke with at the Alcoholic Beverage Commission was, 4 in effect, the commission itself. 5 Yes, sir, I did. He was the one that I 6 dealt with. He was the one that gave me answers to 7 any questions that I had. 8 And they have a board and they have a 9 commissioner. But, basically, as sometimes happens, 10 the attorney that handles the affairs of the 11 commission is the one that you really get your 12 answers from. 13 That attorney had been with the commission 14 a long time, I believe you said. Yes, he had. 15 He was a career employee of the commission? 16 Q 17 Yes, sir. A 18 0 He wasn't appointed to his position by the 19 Clinton administration, was he, sir? 20 I do not believe that he was. I think that 21 he worked there for many years.

The ABC chairman of the board, or the

commissioner, would be appointed by the governor. However, they came and went. A Mr. Moore was there at one time. A Mr. Singleton. And I forget who else.

But on this one attorney that I'm telling you about, it didn't take you long to get an answer whenever you asked him something.

2 3

He told you and that was pretty much it.

Q Was there ever a situation where he gave you one answer and the board or the commissioner came back and gave you a different answer, in your personal experience?

A In my personal experience, the brewery was down to it at one time. And Arkansas celebrated their 100th year. So we made a --

Q Did you say the 100th year, sir?

A It was packaged in two bottles, two-bottle package. And it was going to really bring us out of it because it was a unique deal that you could buy and keep for a long time and maybe give your grandchildren, you know.

That was pretty much approved by him. And then, all of a sudden, the state said that it was an

1 illegal package and began to get it off of the shelf.
2 O So the only time that the board reversed

Q So the only time that the board reversed this lawyer in your dealings with him, they made it worse for you, not better.

A Right. That's correct. That's absolutely
right.
O Do you have any reason to believe, sir.

Q Do you have any reason to believe, sir, that Mr. McDougal had any particular influence with this ABC lawyer?

A No, sir. I don't think he had any influence with the attorney that we're talking about.

Q And do you have any reason to believe, sir, that anyone in the Clinton administration tried to exercise any improper influence with either this individual or with the board on your behalf?

A No, sir, I do not.

Q You stated earlier, sir, that Mr. McDougal made some pretty far-ranging comments about his possible influence with Mr. Clinton.

I just wanted to clarify. Those comments arose before you ever began negotiating or discussing with Mr. McDougal the brewery.

		81
1	Isn't that true?	
2	A No, sir.	
3	Q They continued? Is that what you're	
4	saying, sir?	
5	A Yes.	
6	Q So that was a pretty consistent theme with	
7	Mr. McDougal?	
8	A Yes, sir. You named it. He does a lot of	
9	bragging. He had a lot of deals. He thought he could	
10	do anything.	
11	Whether he could or not well, I guess	
12	history has proven that he couldn't.	
13	Q There was a memorandum that Mr. Gicale	
14	referred to, and I apologize that, because we're on	
15	the telephone, we can't show it to you. But the	
16	memorandum was from Mr. McDougal to Mr. Ward.	
17	In the memorandum, Mr. McDougal stated that	
18	you had committed to put a convenience store and gas	
19	station on two acres of Castle Grande.	
20	That wasn't true, was it, sir?	
21	A We talked about it, sir. We talked about a	
22	motel and we talked about the brew pub. And as I	
<i>44</i>	moter and we tarked about the orew pao. This as I	00
		82
1	told you, every time that I would see him, it would	82
1 2	told you, every time that I would see him, it would be a new deal.	82
1 2 3	told you, every time that I would see him, it would be a new deal. Q But you never actually committed to any	82
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1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17	told you, every time that I would see him, it would be a new deal. Q But you never actually committed to any such deal, did you, sir? A I did not. Q So would you view his telling Mr. Ward that you did commit to a deal as more of his salesmanship, more of his bragging? A Yes, sir, I would. He may have been trying to influence Mr. Ward to do something. I don't know. Only with Mr. Ward, say I went out and looked at the building with him one morning that's my only contact with him, sir. And I was told that he was a salesman, a real estate salesman for the savings and loan. Q So you had no reason to know whether Mr.	82

I'd like to discuss with you for a moment

22

Q

the circumstances of your resignation from the bank board.

You indicated that Mr. McDougal called you and asked you to resign.

A No, sir. He came over to the brewery and asked me to resign.

Q Did he indicate to you, sir, that at that point, that Governor Clinton wanted you to resign?

A No, sir.

 Q Did he indicate to you that Governor Clinton didn't want you to resign?

In other words, sir, did he indicate to you in any way, shape or form that he had previously discussed the matter with Governor Clinton?

A Sir, I do not remember if he ever told me that he had previously discussed the matter with Governor Clinton or not.

I really do not.

I was told later that he needed the appointment by Governor Clinton and by McDougal and who they were going to appoint, and the reason that he thought that he needed it.

And that's all I know.

Q And during the course of that conversation, Mr. McDougal indicated that if you resigned from the bank board, he could get you appointed to the S&L board, or whatever entity that might be.

A His words were more in the effect like I want you to resign from the bank board and we're going to appoint you to the S&L board because I've got to be sure that we get this stock issued.

Q And you naturally were disturbed by the suggestion that your vote could be controlled.

A Well, you would be, too. Yes, sir. I didn't like it.

Q I certainly can't blame you for that. Mr. McDougal never indicated to you that he had spoken with Governor Clinton about the preferred stock offering in any way, did he, sir?

A No, sir.

Q So you have no reason to believe, do you, sir, that the proposal to move you from the bank board to the savings and loan board was anybody's idea, except Mr. McDougal's, do you, sir?

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85 A Well, McDougal wasn't in the state government at that time. And if it was his idea --I'll tell you this. I believe that he could have done it. 0 Well, sir, I'm asking you a different question, if you'll bear with me. You testified that Mr. McDougal came to you and indicated that he wanted you to resign from the bank board and move over to the S&L board. Is that correct? 11 Or some board, yes, sir, that's correct. And he indicated to you that one of the reasons, or perhaps the reason he wanted you on the S&L board was because he had a matter coming before that board and he wanted a friend on the board. That's correct. 17 He didn't indicate to you that anybody else 18 was aware of his motivation for wanting you on the S&L board, did he? 19 20 No. But how in the hell would I ever get on 21 that board unless somebody else knew it? Well, sir, I appreciate that Mr. McDougal 22 86 didn't have the authority to appoint you to the board. A He did appoint me to the bank board. He assisted in arranging your appointment. 0 He arranged my appointment, yes, sir. Α Q Right. It kind of makes a believer out of you when vou see it, vou know? Yes, sir. But the question I'm asking you 0 10 is very specific. I know what you're leading to. I don't know 12 if Bill Clinton knew anything about it or not. 13 My assumption was that he did. 14 That he knew about the appointment to the 0 S&L board. 15 16 Α That's correct. 17 Q What was the basis of that assumption?

But you have no specific knowledge that Mr. 21 22 McDougal ever said anything to Mr. Clinton about the

were friends. They were very close friends.

The basis of the assumption is that, at

that particular time, Mr. Clinton and Mr. McDougal

87 1 preferred stock offering, for example. 2 No. sir. I do not. A 3 So it could well be that whatever Mr. 4 McDougal told you about why he wanted to see you 5 moved from one board to another, he told Governor 6 Clinton something completely different. 7 MR. GICALE: I object to the form of the 8 question. Is there a question, or is that a 9 statement? 10 MR. PORTNOY: Yes. 11 MR. GICALE: What is the question? 12 BY MR. PORTNOY: 13 The question is would you agree it's 14 possible that Mr. McDougal told you one thing about 15 why he wanted to move you from the bank board to the 16 S&L board, and told Governor Clinton something 17 completely different? 18 I think it's possible, but not probable. 19 MR. GICALE: I would object to that. Unless 20 he knows what Mr. McDougal told Mr. Clinton, or Mr. 21 McDougal told him what he told Mr. Clinton, or Mr. 22 Clinton told him what McDougal said to him, it's 88 1 impossible for him to know. 2 MR. PORTNOY: And that's precisely what I'm 3 trying to establish, and I'll go through it question 4 by question. 5 BY MR. PORTNOY: 6 Mr. McDougal never told you what he told 7 Mr. Clinton with respect to you potential resignation 8 or appointment, did he? 9 Α Rephrase the question, sir, or ask it 10 again. 11 Are you there? 12 I'm here, sir, and I'm going to try to 13 break it down into component parts. 14 What it boils down to, I did not see, nor 15 did I hear, Mr. McDougal ever talk to Mr. Clinton 16 about anything.

did he tell you, sir? He told me that he really needed the appointment, that Jim had indicated that if he asked

And just to reiterate, sir, when Mr.

Clinton called you to ask that you resign from the

bank board, he told you that -- well, what, again,

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THE WITNESS: Any time period.

Q With respect to Mr. McDougal's attempt to

BY MR. PORTNOY:

MR. PORTNOY: Let me be more specific, sir.

		91
1	induce you to move your brewery to Castle Grande, to	
2	your knowledge, did anybody in the Clinton	
3	administration intercede on your behalf?	
4	A To my knowledge, they did not, no.	
5	MR. PORTNOY: That's all I have. Thank you,	
6	sir.	
7	THE WITNESS: I appreciate your courtesy.	
8	MR. GICALE: Well, Mr. Lyon, I've got a few	
9	more questions for you.	
10	THE WITNESS: Yes, sir.	
11	EXAMINATION	
12	BY MR. GICALE:	
13	Q Did you know Beverly Basset Schaffer?	
14	A No, sir.	
15	Q Or Beverly Basset, at the time?	
16	A I do not know Ms. Basset. I do remember Mr.	
17	Clinton no, wait a minute Mr. McDougal telling	
18	me that Ms. Clinton, that they were good friends.	
19	Q That Ms. Clinton and who were good friends?	
20	A The name.	
21	Q Beverly Basset?	
22	A With Beverly Basset, yes, sir.	
		92
1	Q How did that come up?	
2		
2	A It was when he was trying to get the stock	
3	deal through.	
3 4	deal through. Q What did he say to you about that?	
3 4 5	deal through. Q What did he say to you about that? A He said they were friends.	
3 4 5 6	deal through. Q What did he say to you about that? A He said they were friends. Q But was this before he asked you to resign	
3 4 5 6 7	deal through. Q What did he say to you about that? A He said they were friends.	
3 4 5 6 7 8	deal through. Q What did he say to you about that? A He said they were friends. Q But was this before he asked you to resign or after he asked you to resign? A Before.	
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3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20	deal through. Q What did he say to you about that? A He said they were friends. Q But was this before he asked you to resign or after he asked you to resign? A Before. Q Well, how did he bring it up? In what kind of a conversation? A I don't remember. And I don't know Ms. Basset, never laid eyes on her. I really don't know Ms. Clinton. I do remember him telling me that they were friends. And that's all there was to it. Q Did you ever come to learn that Beverly Basset approved the preferred stock offering for Madison Guaranty that McDougal had been seeking? A No, sir, I did not know that. Q Other than the transactions you described	

93 brewery transactions, were you involved in any other 1 2 business deals with Mr. McDougal or Madison Guaranty 3 Bank? 4 Yes, sir, with Mr. McDougal. Mr. McDougal 5 borrowed some money from my bank. I believe he originally borrowed \$12,000. That was used to make a 6 7 payment on lands on Maple Creek. 8 He paid that back. 9 When was that? O 10 Α Sometime in the '80s. Before Madison, I 11 think. 12 Before Madison Guaranty? 0 13 A Or maybe in the beginning of Madison 14 Guaranty. 15 Q He borrowed \$12,000 from your bank? 16 A Yes, sir. 17 0 To make a payment for Maple Creek. 18 A Yes, sir. 19 0 And you assisted him in obtaining that 20 loan? 21 Α That's correct. Did you have any other business dealings 22 0 94 with him? 2

1

He borrowed \$20,000 to buy Ms. Susan

3 McDougal a car. 4

From the same bank? Q

5 Yes, sir. A 6

Q When was that?

7 After the 12, sometime in the early '80s.

8 He did not pay all of it back.

9 If I remember correctly, he paid probably 10 \$4000 of it back.

11 0 Did you take any steps to collect on that 12 loan?

13 Α Yes, sir.

14

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16 17

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Was that prior to -- what happened? Did you eventually collect the money?

I was trying to get my money out of him. He had paid \$2000, then he paid another \$2000. The loan was classified. And I didn't know anything was going on with Madison, or anything else. I thought everything was all right.

21 So I talked to that examiner and I told 22

him, look, I said, I cannot understand why you would

```
classify this loan.
 1
 2
            I said, if he had gold in the vault in this
 3
    bank covering that loan, would you still classify it?
 4
    And he said, yes.
 5
        O Now, what did classify mean?
 6
             When you classify a loan, this is an
 7
    examiner's deal. When they classify a loan, then that
8
    means the loan is in trouble, in their opinion, and
9
    they deduct it from the amount of capital that you
10
    have in your bank.
11
             So some examiner classified -- came to your
12
    bank and classified this loan?
13
        Α
             Yes.
14
        Q
             And you questioned that.
15
        Α
             I did, yes, sir.
16
             And what was the reason?
        O
17
             He would not tell me the reason.
        A
18
             Did you later come to learn what the reason
        0
19
    was?
20
             Very swiftly.
        A
             Why was that?
21
        0
22
             Well, it wasn't too long that the Federal
 1
    Government shut Madison down.
 2
             Did you have any other business
 3
    transactions with McDougal or Madison Guaranty?
 4
             Sir, not to my knowledge. I tried to think
 5
    through it. It was a long time ago.
 6
            I don't really recall any other ones.
 7
             Did you ever discuss the cease-and-desist
 8
    order that McDougal had at the Bank of Kingston with
 9
    him?
10
        Α
             No, sir, I did not.
             Since this time, in '84, '85, and '86, have
11
12
    you since discussed this matter with McDougal or the
13
    Clintons or anybody on behalf of the Clintons?
14
             I haven't seen Mr. McDougal since 1996, or
15
    talked to him any. I've seen Mr. Clinton one time and
16
    we -- I speak to him and he speaks to me, but we
17
    really do not know each other very well, when he was
    down here for a Chamber of Commerce luncheon that I
18
19
    spoke to him.
             Did you speak to him about any of these
20
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22 A No, sir.

issues?

WILLIAM CAIN LYON

CERTIFICATE OF NOTARY PUBLIC & REPORTER

I, GARY S. HOWARD, the officer before whom the foregoing deposition was taken, do hereby certify that the witness whose testimony appears in the foregoing deposition was duly sworn; that the testimony of said witness was taken in shorthand and thereafter reduced to typewriting by me or under my direction; that said deposition is a true record of the testimony given by said witness; that I am neither counsel for, related to, nor employed by any of the parties to the action in which this deposition was taken; and, further, that I am not a relative or employee of any attorney or counsel employed by the parties hereto, nor financially or otherwise interested in the outcome of this action.

Notary Public in and for the District of Columbia

My Commission Expires NOVEMBER 14, 2000

DEPOSITION OF ELLSWORTH RUSSELL WEBB, M.D. IN RE: S. RES. 120

MONDAY, DECEMBER 18, 1995

U.S. SENATE. COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS. SPECIAL COMMITTEE TO INVESTIGATE WHITEWATER DEVELOPMENT CORPORATION AND RELATED MATTERS. Washington, DC.

Telephone deposition of ELLSWORTH RUSSELL WEBB. M.D., called for examination pursuant to notice of deposition, at 11:05 a.m. in Room 534 of the Dirksen Senate Office Building, before JANE W. BEACH, a Notary Public within and for the District of Columbia, when were present:

> MARK J. BRENNER, Eso. Majority Assistant Special Counsel GLENN F. IVEY, Esq. Minority Counsel U.S. Senate Committee on Banking, Housing, and Urban Affairs 534 Dirksen Building Washington, DC 20510 On behalf of the Committee.

CHARLES DARWIN "SKIP" DAVIDSON, Esq. Davidson Law Firm, Ltd. 724 Garland, Cantrell At State P.O. Box 1300 Little Rock, Arkansas 72203 On behalf of the Deponent.

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PROCEEDINGS COMMITTEE CONFIDENTIAL

MR. BRENNER: Let's go on the record. I will start with a few preliminaries.

This deposition is going to be conducted pursuant to Senate Resolution 120. The Resolution establishes a Special Committee administered by the Banking Committee to conduct an investigation involving Whitewater Development Corporation; Madison

10 Guaranty Savings & Loan Association; Capital

11 Management Services, Incorporated; the Arkansas

Development Finance Authority; and other related

matters.

In particular, we are going to be focusing this morning primarily on Section 1(b)(3)(B) of Senate Resolution 120. That authorizes an investigation and public hearings into "the activities, investments, and tax liability of Whitewater Development Corporation and, as related to Whitewater Development Corporation, of its officers, directors, and shareholders.

The deposition is going to be conducted in

advance of public hearings which are going to be held in January and perhaps in February, and at that point you may be called to testify.

Additionally, when I spoke to Skip, I mentioned to him that, depending on the answers we get today, we may ask you to come up for a follow-up deposition.

I am going to be asking a series of questions. I have with me James Redfern, who is our banking consultant for the Majority; and Glenn Ivey, who is here for the Minority.

MR. IVEY: Good morning. MR. WEBB: Good morning.

MR. BRENNER: I am going to ask you a series of questions, and I am going to ask you to testify under oath. If you do not understand a question, let me know and I will rephrase it.

If you need a break, let me know as well. Additionally, in this case if there is a problem hearing me or hearing Glenn over the phone, please feel free to speak up.

The Stenographer is going to prepare a

record of the questions and answers, and the deposition will be treated as Committee Confidential until the commencement of the hearings.

1 2

Prior to the hearings you will receive a letter from the Committee telling you that you may come to the Senate to review the transcript of your deposition and make note of any corrections for transcription on an errata sheet.

Depending on what Glenn says, we may be able to work out a way to get you a copy of the deposition if we can get you to sign an agreement in advance in terms of the confidentiality, because this is a phone deposition and you are in Little Rock.

If you are called to testify at the public hearings, we will provide you with a copy of your deposition transcripts four days in advance of the hearings.

You may be represented by counsel -- I know you are represented by counsel. At this point, would your counsel identify himself to the Court Reporter. Skip?

MR. DAVIDSON: My name is Charles Darwin

"Skip" Davidson, Attorney licensed to practice in the State of Arkansas. My office is in Little Rock, Arkansas.

Arkansas.
MR. BRENNER: Okay. Objections to the
form of questions, Skip if you have any, or if Glenn
has any, are going to be noted for the record.

Skip, you may object on grounds of privilege or relevance and the Committee Chairman will rule on all objections where the witness refuses

to answer the question.

At this point I am going to ask that the Court Reporter swear the witness.

MS. BEACH: Mr. Davidson, I will need you to verify for me that Dr. Webb is there and he is who he says he is.

MR. DAVIDSON: I can do that. I can verify that Dr. E. Russell Webb is sitting across the desk from me and is prepared to take the oath and testify.

MS. BEACH: Thank you.

Dr. Webb, would you raise your right hand, please.

			7		
1	Whereu	pon.	,		
2		LSWORTH RUSSELL WEBB, M.D.			
3		led for telephone deposition in the above-			
4		matter and, having been first duly			
5	telephonically sworn as hereinabove noted, was				
6	examined and testified from Little Rock, Arkansas, by				
7	telephor	ne as follows:			
8		EXAMINATION			
9		BY MR. BRENNER:			
10	Q	Can you please state your name for the			
11	record?				
12	Α	My name is Ellsworth Russell Webb.			
13	Q	Could you please spell your first name?			
14	Α	E-L-L-S-W-O-R-T-H.			
15					
16					
17	Q	And your present business address?			
18	Α	No. 10, Medical Plaza, Mountain Home,			
19	Arkansa				
20	Q	Could you just give a brief background of			
21	your ed	ucation and your employment history?			
22	Α	My undergraduate education was at Wayne			
	G		8		
1		niversity in Detroit, Michigan. I am a	8		
1 2	graduate	niversity in Detroit, Michigan. I am a e of the University of Michigan Medical	8		
1 2 3		niversity in Detroit, Michigan. I am a e of the University of Michigan Medical 1971.	8		
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9 We are both pilots, and we met at the 1 2 airport in Flippin, Arkansas. 3 At that point did you discuss with Mr. 4 Wade going into business? Or Did Mr. Wade discuss 5 with you going into business? 6 I can't remember our exact conversation. 7 Do you recall any of the background facts 8 or background factors in deciding to start Ozark Air 9 Services? 10 Α I had an airplane at the airport that the FBO at the airport was using for charter service. 11 12 The? I'm sorry? Did you say "F-B-O"? O 13 Α Yes. 14 0 And what does that acronym stand for? 15 Α Fixed Base Operator. Could you repeat that? We had a bad 16 0 17 connection. 18 Α Fixed Base Operator. 19 0 Thank you. 20 Was this the 1979 Piper Seminole? 21 Yes. A 22 When do you recall purchasing that plane? 0 10 I believe I purchased the plane in about 1 2 1981 or 1982. 3 Do you recall roughly how much you paid 0 4 for the plane? 5 It was in the mid-30s, the mid-\$30,000 6 range. 7 Did you have any other business dealings, 8 other than Ozark Air Services Corporation, with 9 Mr. Wade? No, I did not. 10 A 11 Prior to purchasing a group of lots from 12 Whitewater Development Corporation, could you tell me 13 the nature and extent of the business transactions of 14 Ozark Air Services? 15 Ozark Air Services had the airplane -- my airplane and his airplane -- and we were renting those 16 17 back to the Fixed Base Operator at the airport. 18 When you formed the corporation with

Mr. Wade, did you both transfer your airplanes to the

I am trying to find out in terms of the

As I recall, we did.

19 20

21

22

corporation?

A

11 use of the plane -- do you know whether or not any of 1 the parties involved with Whitewater Development 2 Corporation -- meaning, Jim McDougal, Susan McDougal, 3 4 Bill Clinton or Hillary Clinton -- had used the plane? 5 No, they did not. 6 Do you have a general estimate of the 7 value of the plane when it was transferred to 8 Mr. McDougal? 9 Α Around \$36,000. 10 And did you transfer it to Whitewater Development Corporation? Or did you transfer it to 11 12 Jim McDougal? 13 All I did was sign the registration form. 14 I wasn't even sure who it was going to; I just signed the form and it was transferred. 15 When did you first hear about Whitewater 16 17 Development Corporation? Chris mentioned it to me, I think it was 18 A 19 in 1985. And do you recall generally what was said 20 0 21 to you by Mr. Wade? 22 In general, he told me that there was a 12 1 development on the river near the airport, and that the owners of the development were thinking about 2 3 selling the unsold lots in the development, and he 4 approached me about the possibility of us buying 5 them, the unsold property. 6 And what was your response to that? 7 I wanted to see the property and think Α 8 about it. And did you at that time go see the 9 0 10 property? Chris and I spent one day driving to the 11 Α 12 property. 13 And what was your impression of the property when you finally did see it? 14 15 It was typical Ozark property. It had 16 fairly good White River views. It was quite rough. The roads were in but were rough, also. 17 Did Mr. Wade mention to you at any time 18

before you agreed to buy the lots that he owned Ozark

Yes, I knew he owned Ozark Realty.

And did he also tell you that he might

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Realty Company?

13 receive commissions from the sale? 1 2 Yes Α 3 0 Did that concern you in any way? 4 No, because as a realtor he was in a 5 position to market the property, and therefore he 6 would get a commission for doing that. 7 Do you recall generally when you went to 8 view the lots? 9 I believe it was early in the 10 spring -- well, it was in the early summer or later 11 spring of '85. 12 Could you tell me, on May 4th, 1985, did 13 you sign an agreement to purchase the lots in 14 exchange for an assumption of \$35,000 of Whitewater 15 debt and your 1979 Piper Seminole? 16 I remember signing the papers. I don't 17 remember the dates. 18 Did you have any discussions with Jim 19 McDougal or Susan McDougal or Bill Clinton or Hillary 20 Clinton about the property before signing? 21 No. I was unaware of who the owners were 22 at that time. 14 Did you at the closing meet Mr. McDougal 1 2 or Susan McDougal or Bill Clinton or Hillary 3 Clinton? 4 Α No. Were you the one who represented Ozark Air 5 0 6 Services at the closing? 7 No, I was not. Α 8 O Who represented Ozark Air Services? 9 Α Chris. 10 And do you know who represented Whitewater 0 11 Development Corporation? 12 No, I don't. Α Did Chris present to you to sign documents 13 so that you could assume \$35,000 of the Whitewater 14 15 debt? 16 I signed documents to assume debt. A 17 And did Chris present those to you? 0

Do you know who Seth Ward is?

We are trying to find out. There has been

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Α

some confusion.

No, I don't.

15 Do you know what happened to your aircraft 1 2 after you transferred it to Mr. McDougal? 3 No Α 4 I have no idea. 5 Were you personally involved in any way in 6 any of the negotiations surrounding the transfer of 7 the lots to your corporation? 8 No. I wasn't. Α 9 Was Chris representing Ozark Air in all of 0 10 those transactions? 11 Ves Α 12 And you understood at that time that he 13 was an agent for the seller, as well as the agent for 14 the buyer? 15 Α I don't remember that he was an agent for the seller. 16 17 0 Well, you stated earlier, and I am just trying to make sure it is perfectly clear, that he 18 19 may receive commissions because he owner Ozark Realty 20 Company from the sale. 21 I'm sorry? I'm confused. 22 I thought you meant commissioned for the 16 1 sale of the last half that we ought. 2 BY MR. BRENNER: (Resuming) 3 Oh, okay. Did you know he was in a 4 position to possibly receive commissions for the sale 5 of the lots to Ozark Air Services from Whitewater **Development Corporation?** 6 7 I did not know that at the time. 8 Have you subsequently come to know that? 0 9 Only what I have read in the paper about A 10 him being involved. 11 Do you know who did the legal work for 12 Ozark Air Services on this transaction? 13 (Pause.) A 14 0 Dr. Webb? 15 I'm sorry. No, I do not. A 16 Would you say that your involvement in

20 Are you familiar, or have you come to 21 learn about a payment of \$25,000 by Whitewater 22 Development Corporation to Ozark Realty which

17

18 19 Chris Wade?

Yes, it was,

Α

this transaction was limited to your discussions with

was owned by Chris and Rosalee Wade on March 22nd,

2 1985?

1

3 A I'm not aware of that.

Q Has anybody mentioned to you the fact that there was a check that was written by Whitewater Development Corporation for \$25,000 to Ozark Realty

7 Company?

8 A No, I was not aware of that.

9 Q Has Chris ever mentioned to you the fact 10 that he may have received some financial benefit in 11 terms of a payment by Whitewater Development 12 Corporation to him from the sale of the lots to you

13 from Whitewater Development Corporation?

14 And I could change the way I asked that 15 question, if you would like?

A I was not aware that Chris was receiving any monetary benefit from the buying of the lots.

Q Has Chris subsequently told you that he received either that check for \$25,000 or a check for \$3000 that was also written to Chris Wade personally from Whitewater Development Corporation?

A No, he hasn't.

18

1 Q Did Mr. Wade disclose to you any 2 information relating to his financial benefits that 3 he may have received from the sale to you of the bulk 4 of the lots?

5 A No, he did not.

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Q What amount of income -- I am trying to find out what amount of income Ozark Air was producing prior to its purchase of the Whitewater lots.

A Ozark Air didn't really receive essentially any income, and mostly lost. The note for the plane had to be paid, and the rental of the plane just barely paid the note.

Q Are you holding -- do you have documents before you?

A Ummm --

16 Q Skip had mentioned that you may have some17 documents.

A Yes, I have some.

Q This seems to be as good a point as any to ask you if you could send a copy of those documents to the Committee if they relate to Ozark Air's

22 purchase?

19 1 Yes. 2 I would appreciate it. 0 3 MR. BRENNER: Let's go off the record a 4 minute. 5 (Discussion off the record.) MR. BRENNER: Back on the record. 6 7 BY MR. BRENNER: (Resuming) 8 0 Dr. Webb? 9 Yes Α You mentioned that there was a note on the 10 11 plane? Yes. 12 Α 13 0 Did you, when you transferred the plane, did you retain liability on that note? 14 No, the note was paid off before the plane 15 Α was transferred. 16 And where did the money come from to pay 17 18 that note? 19 I paid the money -- uh -- I'm not sure exactly how the money was, uh, paid. I think Chris and I 20 both paid some of the note. 21 Just to be clear, during 1985 -- I say May 22 20 4th because the documents reflect May 4th, but you do 1 2 not have those documents before you -- when you 3 transferred the plane, part of the transaction was that you would assume \$35,000 of Whitewater 4 5 Development debt? 6 Is that correct? 7 I don't remember exactly what I assumed at 8 that point. 9 Well, do you remember that you assumed a 10 certain amount of debt? 11 Is that a fair statement? 12 Yes. A 13 Do you recall during 1985, or at any point subsequent to that, taking an interest deduction, 14 15 taking a tax deduction on payment of that interest from that debt? 16 17 **During 1985?** 18 I guess I'd have to defer to the tax 19 return. Do you have those tax documents before 20 Q 21 you?

No, I -- I don't think so.

		21
1	(Pause.)	
2	No, I don't.	
3	Q Okay.	
4	I am going to try and walk through a	
5	couple of the financial transactions by which Ozark	
6	Air Services paid down some of the debt.	
7	I have in my documents that on July 23rd,	
8	1985, Ozark Air Services made a payment of \$9,500 on	
9	its \$35,000 obligation to First Ozark National Bank.	
10	Do you know anything about that?	
11	. A I vaguely remember that number and that	
12	bank, but I don't remember the details of the	
13	transaction.	
14	Q Was Ozark Air Services, to your knowledge,	
15	producing income at that point?	
16	A In July of 1985?	
17	Q In any time after the purchase of the	
18	Whitewater Development lots.	
19	A The only income was from the individual	
20	sales of the lots and commissions from the sales.	
21	O Well Ozark Air Services did not receive	
22	commissions from the sales, did they?	
		22
1	A No I'm sorry. Chris received the	
2	commissions. It was only the only income was from	
3	the sale of the lots.	
4	Q And do you recall whether or not you sold	
5	many lots in 1985?	
6	A We had ongoing sales. Most were low-down-	
7	payment monthly payment type sales.	
8	Q Do you recall having to contribute any	
9	money to Ozark Air Services during 1985 and 1986 so	
10	as to help to pay down the note?	
11	as to help to pay down the hote?	
10		
12	A I do not remember contributing any money.	
13	A I do not remember contributing any money. Q Have you had any discussions with Jim	
13	A I do not remember contributing any money. Q Have you had any discussions with Jim McDougal in the months and years subsequent to your	
	A I do not remember contributing any money. Q Have you had any discussions with Jim	
13 14	A I do not remember contributing any money. Q Have you had any discussions with Jim McDougal in the months and years subsequent to your purchase of the lots?	
13 14 15	A I do not remember contributing any money. Q Have you had any discussions with Jim McDougal in the months and years subsequent to your purchase of the lots? A No, I haven't.	
13 14 15 16	A I do not remember contributing any money. Q Have you had any discussions with Jim McDougal in the months and years subsequent to your purchase of the lots? A No, I haven't. Q Has Mr. Wade mentioned to you any	
13 14 15 16 17	A I do not remember contributing any money. Q Have you had any discussions with Jim McDougal in the months and years subsequent to your purchase of the lots? A No, I haven't. Q Has Mr. Wade mentioned to you any discussions he had with Mr. McDougal related to the	
13 14 15 16 17	A I do not remember contributing any money. Q Have you had any discussions with Jim McDougal in the months and years subsequent to your purchase of the lots? A No, I haven't. Q Has Mr. Wade mentioned to you any discussions he had with Mr. McDougal related to the sale and purchase of the Whitewater lots, or anything	
13 14 15 16 17 18	A I do not remember contributing any money. Q Have you had any discussions with Jim McDougal in the months and years subsequent to your purchase of the lots? A No, I haven't. Q Has Mr. Wade mentioned to you any discussions he had with Mr. McDougal related to the sale and purchase of the Whitewater lots, or anything else related to Whitewater Development Corporation?	

Q Did he have any other conversations with

23 1 you about the lots and about the transactions 2 surrounding those lots? 3 We discussed, usually per telephone, the 4 sale of lots when they were sold, and the monthly 5 income from the sale. 6 Would you describe your role relative to 7 Mr. Wade's as the more passive of the two investors? 8 Yes, I certainly would. 9 O Did Mr. Wade ever talk to you or 10 communicate to you that Mr. McDougal was upset about 11 the fact that interest on your portion of the 12 Whitewater debt, which I say to you is \$35,000, that the interest was being accumulated against Mr. 13 14 McDougal's portion of the note? 15 No, I didn't know anything about that. Have you had any contact with anyone from 16 0 17 First Ozark National Bank about your portion of the 18 Whitewater loan? 19 At the time -- I may have at the time I 20 signed the note. 21 Q Okay. Do you recall any of the surrounding 22 24 facts? 1 2 No, I really don't. 3 Do you recall a period of time where no 4 payments were made against the principal of the debt 5 acquired by Ozark Air? 6 Α No, I wasn't aware of that. 7 Could you describe some of the financial history of Ozark Air in terms of its payment of 8 9 Whitewater debt at all? 10 All I know is that we had a note. Payment 11 of the last -- was essentially paying the note, and 12 over a period of time the note was paid off. 13 Did you and Mr. Wade share the financial 14 burdens of payments on the first Ozark note equally? 15 The "first note" payment? Α In other words, the \$35,000 in debt; did 16 0 you and Chris pay in equally toward that debt? 17

> 0 When you formed Ozark Air Services, was

Do you recall whether or not you both paid

I believe we both paid towards it.

18 19

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21

22

Q

Α

No, I don't.

equally?

25 1 your capital contribution equal or nearly equal to 2 Mr. Wade's? 3 Α Yes. Our plan was to be equal. 4 Did that equality continue? Q 5 A In terms of monetary contribution? 6 O Yes. 7 A As far as I recall, after we signed the note and the sale of lots began to pay the note, no 8 9 other monetary contribution was needed. Did Mr. Wade ever discuss with you his 10 11 request to a gentleman by the name of Ron Proctor at 12 First Ozark National Bank for a deferment of payments 13 for approximately eight months on your note debt? 14 I've met Ron Proctor. I don't recall a 15 deferment on payments. 16 O When do you recall meeting Ron Proctor? 17 Α Yes. 18 O I'm sorry? When do you recall? 19 I met Ron Proctor at the bank many years 20 ago. 21 And what was the nature of your 22 relationship with Mr. Proctor? 26 1 As I recall, Chris and I signed some 2 papers, or did some paperwork at Mr. Proctor's bank. 3 Do you recall any of the underlying facts 4 about that transaction? 5 No, I really don't. 6 0 Were you and Mr. Wade friends during the 7 1980s? 8 Α Yes. 9 Did Mr. Wade ever discuss with you his personal financial burdens in November of 1989, or at 10 11 any point subsequent to the beginning of 1989? 12 I knew he had other financial problems. 13 He never discussed with me the exact nature of them. 14 or the degree of them. Q Did he ever discuss how that might impact 15 16 on your business dealings with him? 17 A As I recall, our business corporation was

20 Do you recall having discussions with 21 Mr. Wade about his declaring Chapter 11 Bankruptcy in 22 November of 1989?

a separate entity, and I did not feel it would have --

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19

be impacted.

27 1 He didn't recall discuss it with me at 2 any -- any degree. 3 Did he discuss it with you at all? 0 4 I really don't remember that he did. 5 I heard about it, but I can't remember if 6 I heard it from him, or who from. 7 What do you recall hearing about it? 8 Α Just that he was involved in the 9 bankruptcy. Subsequent to that, Mr. and Mrs. Wade 10 11 converted their Chapter 11 bankruptcy into a Chapter 12 7 bankruptcy. 13 Do you recall any discussions of the Chapter 7 bankruptcy? 14 15 Α No, I don't. Did Mr. Wade ever discuss with you how he 16 0 planned to value his portion of the Whitewater 17 18 Development lots for the purpose of this bankruptcy 19 filing? 20 No, he didn't discuss that. Α 21 0 Did he at any point turn to you, or did he 22 mention to you turning to anyone else, about helping 28 1 him with his financial obligations related to 2 Whitewater? 3 I don't recall that he did. Α 4 Q Do you know who Jim Blair is? 5 Α Jim who? 6 0 Jim Blair. 7 Α No. I don't. 8 Do you recall Mr. Wade ever talking to you 9 or mentioning the name "Jim Blair"? 10 No. I don't. Α 11 Did Mr. Wade ever discuss with you during 12 1991 or 1992 any discussions he might have had with 13 third-parties related to the Whitewater debt that you 14 had assumed? 15 No, he did not discuss anything, as I 16 recall, with me. 17 Do you recall whether or not Mr. Wade may have mentioned to you the fact that he had visitors 18 19 from President Clinton's campaign during 1992 related 20 to Whitewater? 21 No. I don't recall that he told me

22

anything about that.

29 1 Q Have you heard from third parties anything about Mr. Wade being visited from the 1992 Clinton 2 3 Campaign? 4 Not from the Clinton Campaign. Α 5 O From where, sir? 6 In the paper we read about the news media A 7 going down and looking at Whitewater. 8 0 That was the only contact you recall? 9 Α (Pause.) 10 0 Dr. Webb? Yes? 11 A Q That was the only contact you recall? 12 Sorry. Yes, that was my only contact. 13 Α 14 0 Do you recall any of the surrounding facts 15 around a payment on May 12th, 1992, to close out the Whitewater debt? 16 17 Α May of '92? 18 O Yes. 19 Α At one point in time we paid down the 20 debt, but I don't remember the dates. 21 0 You recall paying down the debt? 22 I remember the debt -- telling me the debt Α 30 1 was paid down. 2 Q Did Chris mention to you that he was going 3 to pay down the debt? 4 My recollection was that it was being paid 5 on a monthly basis from the income of the lots. 6 MR. BRENNER: We are just going to go off 7 the record for a minute. 8 (Discussion off the record.) MR. BRENNER: We will go back on the 9 10 record. 11 BY MR. BRENNER: (Resuming) 12 Dr. Webb, we were discussing the payment 13 of the Whitewater debt. 14 A Yes. 15 O As I understand it, and maybe you can 16 explain differently, there was a negotiation for a refinancing of a portion of your debt? 17 18 Is that correct?

Q Would you explain the refinancing to me?

I believe at one point in time we did

19

20

21

22

A Yes.

refinance.

31 1 Α What time frame -- when? 2 0 As early as you remember refinancing. 3 Α I remember refinancing, which basically 4 was a matter of signing a new note, maybe at a 5 different institution, but for the same amount. 6 Do you recall the amount? 0 7 Α No. 8 0 Do you recall if the bank was Citizens 9 Bank? 10 I remember the name "Citizens Bank." A 11 O Why did you refinance for the same amount? 12 Bruce came to me wanting to move the note Α 13 to a different bank. 14 Q Did he say why? 15 Α I don't recall that he did. 16 And you said, sure, no problem? 0 17 Α Yes. 18 0 Did you provide any details or personal 19 financial statements to the new bank? 20 I don't recall. 21 I don't think I did. I don't remember 22 that I did. 32 1 Do you recall any of the details 2 surrounding the refinancing? 3 I just remember Chris coming to me wanting 4 to refinance to a new institution, (inaudible). 5 Could you repeat your last statement, 6 please? 7 He refinanced the lapse to a new 8 institution with the same equity as before, being the lots. That is all I recall. 9 10 Now your refinancing was the only property 11 of yours involved, the Ozark Air property, which is 12 the Whitewater Development lots? Or do you have to

particularly readable, and that occurred May 12th, 19 1992. 20 Do you recall any payments being made at 21 that point? 22 Α I don't remember any particulars. The

I do not make any other guaranty.

payment of approximately \$9600, although it is not

note, I have records that reflect that there was a

Getting back to the final payment of the

make any other sort of guarantee?

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33 1 only thing Chris told me was sometimes he would sell 2 a lot for cash, rather than on a note, so he could 3 have developed the cash that way. I don't know. 4 Did you sign any of Ozark Air's checks? 5 Α No. I didn't. 6 MR. BRENNER: Off the record. 7 (Discussion off the record.) 8 MR. BRENNER: Back on the record. 9 BY MR. BRENNER: (Resuming) 10 So you do not recall any of the details surrounding an approximately \$9600 payment? 11 12 No. No special details no. 13 0 Did it strike you as in any way peculiar 14 that an individual in Chapter 7 bankruptcy would be 15 making this sort of payment? No, not really. No. 16 A Did he contact you at any point to let you 17 18 know he planned to pay off the Whitewater debt? 19 No, we had discussed paying down the debt 20 and paying it off as soon as possible, but it was just a matter of how much income we received as to 21 22 how fast you could pay off the debt. 34 1 What is the current status of your 2 involvement in Whitewater lots? 3 Chris signed a note with me and bought my 4 half of the corporation. When did this occur? 5 0 6 Α 1993. 7 Do you recall approximately when in 1993? Q 8 Α January of '93. 9 How much was the note for? Q 10 \$51,000. A Q 11 Was that \$51,000? 12 Yes. He paid me \$51,000 on a note. Α 13 Q Has he subsequently paid off that debt to you? 14 15 Α He is paying me \$600 a month. 16 0 And what sort of interest is he paying? 17 8 percent. A 18 Do you know how you came to the figure of O 19 \$51,000? 20 Α No. According to the corporate books, the

value of the property apparently was twice that.

And you are going to be providing us with

21

1 a copy of those books?

A I don't have any books with me, other than paperwork sent by his accountant to me.

- Q But you will be providing us with a copy of those documents?
 - A Yes.
- Q In 1984 -- I am going to go back -- there is a statement by Whitewater Development Corporation that the value of 23 of the 24 lots was \$191,550. Have you ever seen a statement to that effect?
 - A No, I haven't -- I don't recall that I have.
- Q Would you know roughly the fair market value of those lots when you purchased them?

A Chris showed me on a single piece of paper the retail price, what they were asking for the lots, and the total value, and then we discussed what we could buy them for as a group.

Q How would you describe your investment in the lots? In other words, do you consider it a financial success?

A (Pause.)

Q I'm sorry

A It was a very long-term investment, so over time it was not a very good investment.

Q And do you place any of the blame for this investment on Chris Wade?

A Well, at the time we had an airplane that was not making any money, so -- I guess I did not have great expectations in this field.

Q At the time of the investment, did you know that he was the broker for Whitewater Development Corporation on the sale of these lots for nearly seven years prior to your purchasing them?

A No, I didn't know that.

Q Did you know that he was in a position to know that these lots were not selling at the rate that the original investors had anticipated?

A I'm sorry? Could you repeat that question? I didn't hear it.

MR. BRENNER: Would you please read back that question.

THE REPORTER: "Did you know that he was in a position to know that these lots were not selling at the rate that the original investors had

37 1 anticipated?" 2 THE WITNESS: We discussed, Chris and I 3 discussed the listed value of the lot, and we 4 discussed the realistic selling price that we could 5 obtain. And he let me know that it probably was not 6 as much as listed, but we thought it would more than 7 cover debt. 8 BY MR. BRENNER: (Resuming) 9 I want to go back for just a minute to the 10 \$51,000, the note that was signed by Chris Wade to 11 you. 12 What other assets or liabilities did Ozark 13 Air Services have at the time of the sale besides the 14 remaining lots and -- that's it; the debt was paid 15 off -- besides the remaining lots? 16 That's it. It was the remaining lots were 17 the only assets. 18 O Do you recall how many lots were left? 19 And of course there were notes receivable. 20 There were people paying on a monthly basis on those 21 lots. 22 Q Were there any unsold lots? 38 1 Α I don't recall that there were. 2 0 What happened to the second plane? 3 The second plane in Ozark Air Service? Α 4 Yes, sir. 0 5 That was sold way back. Α 6 Q Way back? 7 Could you give me an approximate year? 8 '84-'85. 9 Do you recall if you sold it before or after you acquired the Whitewater lots? 10 11 Α I don't recall. 12 Do you have any records in your possession 0 that would reflect when that sale occurred? 13 14 No. I don't. Α 15 0 Who is the document custodian for Ozark 16 Air Services, do you know? 17 Α That was Chris. 18 O Have you ever heard the name Susan 19 Thomases?

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Q

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Yes.

Susan Thomases?

No, I haven't.

1	Q You can't see this, but I am looking at
2	some notes that were made by Susan Thomases on March
3	4th, 1992. And written in the notes is the name "Jim
4	Blair," underlined, and then it says "Chris Wade
5	rescued by, I believe, brother-in-law from deal that
6	would have put him in jail. We are not to talk to
7	Chris Wade because he's been through bankruptcy and
8	is still target of fraud allegations. We believe we
9	may have a cause of action versus him. Do not want
10	to have contact with him because it would taint the
11	suit."
12	Do you know if this could in any way
13	relate to the purchase of the Whitewater lots?
14	A No, I don't.
15	MR. IVEY: By the way, if there is a Bates
16	Stamp number you might want to put it in.
17	MR. BRENNER: I apologize. It is Bates
18	Stamp ST0000038.
19	BY MR. BRENNER: (Resuming)
20	Q Have you ever considered pursuing any
21	cause of action against Mr. Wade related to the
22	Whitewater Development lot?
	4
1	A No, I haven't.
2	Q Do you think Mr. Wade should have
3	disclosed to you that he or his corporation appeared
4	to have received \$28,000 in financial benefit from
5	the sale to Ozark Air Services of the lots?
6	A Yes, I think that would have been
7	appropriate.
8	Q On what, from your discussions with us,
9	has been valued at a \$70,000 sale the \$35,000 value
10	of the plane and the \$35,000 assumption of the debt
11	on that \$70,000, Mr. Wade received \$28,000 in
12	financial benefit immediately.
13	Do you think that you received any
14	financial benefit from the Whitewater lots?
15	A I received no benefit at all until he
16	bought my equity in the back in '93.
17	(Pause.)
18	Q Do you know what Mr. Wade is doing
19	currently professionally?
20	A He is in the real estate business.
21	Q When was the last time you spoke to
22	Mr. Wade?
LL	

41 Four or five months. 1 Α 2 0 Was it related to the Whitewater lots? 3 No. We happened to cross paths at a Α 4 restaurant and just said hello. 5 When was your last professional contact 6 with Mr. Wade? 7 Not your profession as a doctor, but your 8 profession as an investor in Ozark Air Services. 9 I think it was back when we signed this 10 promissory note in '93. O Have you been receiving steady payments 11 from Mr. Wade of \$600 a month? 12 13 A Yes 14 MR. BRENNER: Off the record. 15 (Discussion off the record.) 16 MR. BRENNER: Back on the record. 17 BY MR. BRENNER: (Resuming) 18 The \$51,000 note, is that secured by 19 anything? Or is that an unsecured note? 20 I guess it was unsecured. A So you gave him an unsecured note at 8 21 22 percent interest? 42 1 A No. 2 0 I'm sorry? 3 Well, I guess it was secured by the property. There was no other security to it than the 4 5 property, or the notes receivable from the buyers. 6 Do you have a copy of that note signed by 7 Mr. Wade to you? 8 Α Yes. 9 Could you provide us with a copy of that 10 note, please? 11 Α Yes. 12 At this point if Mr. Ivey has some 13 questions, I am going to have Mr. Ivey ask those 14 questions and then I may have a few follow-up 15 questions. 16 **EXAMINATION** 17 BY MR. IVEY: 18 Good afternoon. I do not know that I am 19 going to have much. 20 Give me a moment to review my notes. 21 (Pause.) 22 MR. DAVIDSON: Let me clarify for the

43 1 record that the note which we have a copy of is 2 executed by Ozark Air Services, Inc., and is secured 3 by 100 shares of stock in Ozark Air Services, Inc., 4 according to the face of the note. 5 MR. BRENNER: Skip, is that you? 6 MR. DAVIDSON: Yes. 7 MR. BRENNER: Skip, could you repeat that, 8 please, so we can put it on the record? 9 MR. DAVIDSON: Yes, sir. This is Skip 10 Davidson. Just to clarify Dr. Webb's testimony which regard to the note which you asked him about, I am 11 12 holding a copy of what appears to be that note. That 13 is a January 1, 1993, note in the principal amount of 14 \$51,575. It recites on its face that it is secured 15 by 100 shares of stock in Ozark Air Services, Inc., 16 and it is executed by Ozark Air Services, Inc., and an illegible signature which would appear to be Chris 17 18 Wade's signature. 19 So it is corporate note, just to clarify 20 the record. 21 MR. IVEY: Let's go off the record. 22 (Discussion off the record.) 44 1 MR. IVEY: We are going to go back on the 2 record. I do not have any questions at this time. 3 I assume when you send up your additional 4 documentation there may be some chance of follow-up 5 questions, but I do not have anything at this point. 6 MR. BRENNER: If I could just ask one follow-up, even though Glenn did not follow up: 7 8 FURTHER EXAMINATION 9 BY MR. BRENNER: 10 Did you have a lawyer look over the 11 documents related to the transfer of your rights to 12 your half of Ozark Air Services? 13 Did a lawyer look over the documents? A

Q Yes.
A No, I don't think so.
Q Did you have a concern about Mr. Wade's bankruptcy and the fact that he was signing a \$51,000 note, even though it appears to be a corporate note, that you may not receive that money? Was that a concern?
A It was a concern, but it was a corporate note.

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ELLSWORTH RUSSELL WEBB, M.D.

I, JANE W. BEACH, the officer before whom the foregoing deposition was taken, do hereby certify that the witness whose testimony appears in the foregoing deposition was duly sworn; that the testimony of said witness was taken in shorthand and thereafter reduced to typewriting by me or under my direction; that said deposition is a true record of the testimony given by said witness; that I am neither counsel for, related to, nor employed by any of the parties to the action in which this deposition was taken; and, further, that I am not a relative or employee of any attorney or counsel employed by the parties hereto, nor financially or otherwise interested in the outcome of this action.

Notary Public in and for the District of Columbia

My Commission Expires NOVEMBER 14, 1996

41-384



DEPOSITION OF CHARLES F. HANDLEY IN RE: S. RES. 120

TUESDAY, DECEMBER 19, 1995

U.S. SENATE,
COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS,
SPECIAL COMMITTEE TO INVESTIGATE WHITEWATER
DEVELOPMENT CORPORATION AND RELATED MATTERS,
Washington, DC.

Deposition of CHARLES F. HANDLEY, called for examination pursuant to notice of deposition, at 12:50 p.m. in Room 534 of the Dirksen Senate Office Building, before JULIE BAKER, a Notary Public within and for the District of Columbia, when were present:

LOUIS J. GICALE, Esq.
Majority Deputy Special Counsel
LANCE COLE, Esq.
Minority Deputy Special Counsel
STEVEN H. FROMEWICK, Esq.
Minority Assistant Special Counsel
U.S. Senate
Committee on Banking, Housing, and Urban Affairs
534 Dirksen Building
Washington, DC 20510
On behalf of the Committee.

ALSO PRESENT: JAMES F. REDFERN

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by Mr. Gicale	*************************	 181

or six years, then you became an examiner supervisor,

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and you were an examiner supervisor until you were assistant securities commissioner two years ago?

That's correct

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0Mr. Handley, this deposition is being conducted pursuant to Senate Resolution 120. The resolution establishes a Special Committee administered by the Banking Committee to conduct an investigation involving Whitewater Development Corporation, Madison Guaranty Savings & Loan Association, Capital Management Services, Inc. and the Arkansas Development Finance Authority and other

related matters. 12 Section 1(b)(3)(a) and (b) of Senate Resolution 120 authorizes an investigation and public 14 hearings into A, the operations, solvency and 15 16 regulation of Madison Guaranty Savings & Loan 17 Association and any subsidiary, affiliate or other 18 entity owned or controlled by Madison Guaranty 19 Savings & Loan Association; B, the activities,

investments and tax liability of Whitewater 20

Development Corporation and as related to Whitewater 21 Development Corporation of its officers directors and 22

shareholders. This will be the focus of today's

2 deposition. 3

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Okay.

You were requested to testify last week in this matter. The deposition is being taken in advance of a public hearing which will occur in early 1996. It is possible that you may testify at that hearing. We'll be asking you a series of questions. You, of course, are testifying under oath. If you don't understand any questions, let us know and we will rephrase the questions.

10 11 The stenographer is preparing a record of the questions and answers. The deposition will be 12 13 treated as committee confidential until the commencement of the hearings. Prior to the hearings, 14 you will receive a letter from the Committee telling 15 you that you may come to the Senate to review the 16 transcript of your deposition and make notes of any 17 errors on an errata sheet. I note you're in Little 18 Rock. We can make arrangements to make that 19 20 transcript available to you there so you can make 21 corrections.

7 If you are called to testify at a public 2 hearing, you will be permitted to have a copy of your deposition transcript four days in advance of your 3 4 testimony. You may be represented by counsel. I 5 know today that you are not. 6 Objections to the form of the questions 7 will be noted for the record. Counsel may object on 8 grounds of privilege or relevance and the Committee 9 Chairman may rule on objections where the witness refuses to answer a question. 10 11 Do you have any questions at this point? 12 No. 13 Now, between 1984 and 1986, who did you report to as a financial examiner supervisor? 14 I think the last part of '94 was Lee --15 A 0 16 17 I said '94 -- '84, I think the last part of it was Lee Thalheimer. I think he left mid part of 18 19 September, latter part of September and Beverly 20 Bassett became securities commissioner after Lee 21 Thalheimer left. 22 And you answered directly to Mr. Thalheimer 8 1 and later to Beverly Bassett? 2 Α Yes. 3 0 In '84 and '85? 4 A Uh-huh 5 0 What about a Mrs. Jones? 6 She was chief examiner and technically, she 7 was my boss, but really we're such a small office, 8 generally if I had any questions or concerns, I answered directly to the commissioner. 9 10 So then from 1985 until when did you answer 11 to Beverly Bassett? 12 Until she left. I don't know what date Α 13 that was. Well, she continued on there through '85 14 15 and '86 and '87; correct? 16 Yes. A 17 Now, are you aware of a request of the Committee requesting documents from your department? 18 19 Α 20 0 Did you assist in searching for documents 21 in response to that request? Maybe not -- we've been subpoenaed and 22

440 9 given those away. I helped assimilate them at the beginning but not specifically for that request because they had already been assembled. Have you reviewed your records and searched your records to determine whether or not you have any records with respect to these issues, and have you turned them over to the department to turn over to I believe myself and my department has made -- has turned over all the records available. Q Did you have an opportunity to review any of these records before you testified? Yes. I didn't review them recently but I have, of course. A lot of them were generated by myself and over the time -- prior testimony and hearings I have reviewed them but not specifically Did you speak to anyone prior to your

19 deposition today about the substance of your 20 testimony today? I spoke to my boss, Joe Madden, and told

21 22 him I was coming.

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1 Joe Madden? Q

like the day before.

the Committee?

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2 A Yes.

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0 He's the present securities commissioner?

4 Α Correct, Joe E. Madden, Jr.

5 0 Did you talk to him about what you'd be 6 testifying to? 7

In general, that I had been subpoenaed regarding the Whitewater matter, Madison Guaranty.

Did you talk to anybody else about the substance of your testimony today?

11 No.

Now, going back to 1985, do you recall when 13 it was that you first heard of a request by Madison 14 Guaranty for approval for a preferred stock plan?

15 April -- by a letter from the Rose Law Firm 16 in the latter part of April.

17 Showing you what's marked for 18 identification as document 000084, a letter dated 19 April 30, 1985, and it's to Charles Handley regarding 20 authorization and issuance of a class of preferred 21 stock by Madison Guaranty signed "very truly yours,

22 the Rose Law Firm."

Is this letter the letter you're referring 2 to? 3 Yes. A 4 And did you receive this directly, or did 5 somebody else hand you this letter? The policy was all the mail is assembled at 6 7 the commission and in the commissioner's absence, the 8 assistant commissioner will review the mail and pass 9 it out to the various departments, so I got it after 10 this time, after Beverly had reviewed it. 11 So initially, while it was addressed to you and there was a cc to Beverly Bassett, she reviewed 12 13 the letter and handed it to you? Α Uh-huh. 14 15 MR. COLE: And I believe you to say that 16 was in accordance with the normal practice in the law 17 firm? THE WITNESS: Yes. 18 19 MR. COLE: Thank you. Thank you, 20 Mr. Gicale. 21 BY MR. GICALE: 22 When she handed you the letter, did you 12 1 have any conversation with her about it? A I can't remember specifically, but I don't 2 3 recall having any. This would come in the correspondence that dealt with my section. It would 4 5 just be in the pile. I know I didn't get it specifically. It would be that day's mail. 6 7 O So it came in the mail. Did she hand it 8 over to you, or did she have a conversation with you 9 about it at the very beginning when the letter was 10 handed --11 No, I don't recall discussing this. I 12 mean, I just got it. 13 Q Prior to receiving this letter, did you 14 have any conversations with anyone at Madison 15 Guaranty Bank about this request? No, I don't recall. I think maybe one of 16 their employees phoned up and asked if we had an 17 18 application. Do you know if you talked to Mr. Latham 19 about the possibility of this request? 20

No, I don't think I recall Latham. That

guy in there was named Fitzhugh, the guy I talked to,

wanted to know if we had a specific form to file a request to do this. As I recall, I told him no. 2 3 Did vou tell him he had to write a letter 4 at that point? 5

Α Yeah, just a letter.

Do you know prior to receiving this letter whether you had any conversations with anybody at the Rose Law Firm about this letter, this request?

No. I know I didn't have a conversation with the Rose Law Firm regarding this.

You did not? 0

12 Α No. I didn't.

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The letter generally concludes while there is not a specific provision for preferred stock, that under the Arkansas Business Corporation Act, that it would be appropriate. Did you agree with that at the time vou reviewed it?

No, not initially. My concern -- I wrote a memo -- was our act only speaks of one class of stock, capital stock, and not preferred stock. That was my concern, and I think I wrote Beverly and Nancy

22 a memo regarding that.

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1 I'm going to show you what's marked for 2 identification with the same Bates number as 3 before --

4 MR. COLE: For some reason, all of these 5 documents are numbered quadruple or more zero 84. 6

MR. GICALE: But there are other Bates numbers. Just to go back and straighten out the record, the letter of April 30, 1985, there's another Bates number 5000286, so I will start referring to --

THE WITNESS: What's the Bates number?

MR. COLE: These are the numbers that are manually stamped at the bottom of the document in litigation or other proceeding.

BY MR. GICALE:

14 15 Now, referring to the second document that 16 I've shown you which is marked number 5000289, this 17 is a -- this appears to be a copy of some notes from you to Beverly and Nancy dated May 6, 198 -- I 18 believe it's 1985, although the last digit is not on 19 20 this copy. Are these the notes or memo you were 21 referring to earlier?

22 Yes. A

15 MR. COLE: Just for the record, I would note that this appears to be a form of routing slip that has notes on the routing slips. BY MR. GICALE: This is your writing on this routing slip; 0 correct? Α It is. Could you read this to us? 0 I'll try. It's addressed to Beverly and Nancy from Charles, date May 6, 1984. It's blocked out --0 '84 or '85. This request was in 1985; correct? '85. It's blocked out on the memo. Α MR. COLE: It didn't -- it's not blocked out. It's just at the far right margin of the document and apparently it didn't copy when this document was copied. THE WITNESS: Yes, that's correct. It reads "attached is a copy of a letter dated April 30, 1985 from the Rose Law Firm which states" -- "which sets forth Madison's plan to issue preferred stock, 16 in legal opinion, that Madison can issue such preferred stock. Perhaps one of our attorneys should review this matter and issue a legal opinion regarding such and advise the Rose Law Firm and Madison. I'm of the opinion that our S&L statute only allows a stock association to issue capital or permanent capital stock. Thus, if preferred could be issued, it would have to be done under the wild card provisions, section 58 of Act 207 of 1963 and" -it's hard to read -- "and of section 58 is broad enough." BY MR. GICALE: Q Does that say only if section 58 is broad enough? Does that word before "of" "only" under the printing "per conversation"? I'm not sure what that word is. I can't read it. I don't know what it is.

22 word is.

So the last part of that --

A It says "thanks. P.S. Based on their

12/31 audit report, Madison will have to -- is in

need of additional" -- I don't know what that last

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17 1 O Now, as a result of this, did you -- this 2 request, did you have occasion to review the sections of the law that Mr. -- the Rose Law Firm had 3 4 submitted with respect to this request? 5 I don't recall ever looking at those 6 sections in the letter. 7 O Did you look at the wild card sections that 8 you referred to? 9 Yes, it's a part of our act, the wild card 10 section is part of the S&L Act. The wild card 11 sections -- we have a part of the act in the rules 12 that savs --13 Which act is this? 0 14 The Arkansas Savings and Loan Act. The 15 wild card section I was talking about is we have a provision in the S&L Act that we administer, that the 16 17 board administers in our department that says that a 18 state chartered association can make any investment 19 and do anything that a federal association in the state to give them parity with the federals. That's 20 21 what we call the wild card statute. 22 MR. GICALE: Off the record. 18 (Discussion off the record.) 1 2 THE WITNESS: It was section 58. 3 BY MR. GICALE: 4 Q Mr. Handley, the section that you were 5 referring to at the time, the wild card section or 6 provision was section 58 of Act 227; is that 7 correct? This enumerates additional power of 8 associations? 9 That's correct 10 And that section says as follows: "With 11 the approval of the supervisor, an association may 12 make any loan or investment that a federal 13 association is authorized to make irrespective of any 14 limitation contained in this act or under the 15 existing laws of this state." 16 That's correct. That was the document to give state charters parity with the federal 17 18 associations. That section addresses loans or 19 20 investments: correct? 21 A Uh-huh.

How did that section apply to issuing

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preferred stock?

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I believe it's been broadened. And there's a rule that says this. I believe that has been -- we need to find it in the statute here.

MR. GICALE: Go off the record again.

(Discussion off the record.)

BY MR. GICALE:

Q Mr. Handley, in your memo, you refer to section -- the wild card provision, and then after that, there is a reference to section 58 of the Act. And earlier you testified, and I read to you section 58, and then you determined that after reviewing that section again that that really was not the act that you had been referring to: is that correct?

A Yes. That's not the section of the act -after you asked me the question and reviewing the act and rules, I miscited the wild card provision in my memo. It's actually currently Arkansas code annotated 23-37-401 and rule 3 of the rules are the same as the loan board.

And this section and these rules were in effect in 1985; is that correct?

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Yes. 1 Α 2

And what is the title of that section 0 23-37-401?

"Powers commensurate with federal associations."

MR. COLE: Could I ask a clarifying question, Mr. Handley? Mr. Gicale previously showed you a copy of an April 30, 1985 letter from the Rose Law Firm directly addressed to you. And that letter cites Arkansas statute 67, section 1864, and quotes it as -- provides in pertinent part the Arkansas Business Corporation Act as amended shall be applicable to permanent stock savings and loan associations created or operating under the provisions of Act 227 of 1963 and such savings and

loan associations shall enjoy the same powers and

17 privileges to be subject to the same duties,

18 restrictions and liabilities as other corporations

19 except so far as the same may be limited or enlarged

by the provisions of Act 227 of 1963." 20 21

Is the statute that I just quoted that's cited in this Rose Law Firm letter not what you've

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    referred to as the wild card statute?
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            THE WITNESS: No. it's not. This is a
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    different statute, other than S&L and Building and
 4
    Loan Act. This is the Arkansas --
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            MR. COLE: That's a statute of general
 6
    application to all corporations in the state of
 7
    Arkansas.
 8
            THE WITNESS: Right.
 9
            MR. COLE: And it was your view as
    reflected in your notes that rather than the statute
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11
    cited in the Rose Law Firm governing, it would, if at
12
    all, be governed by what you referred to as the wild
    card statute under your --
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            THE WITNESS: I thought that would be a
14
15
    better thing to do.
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            MR. COLE: I just wanted to understand the
17
    legal analysis that you were going through here. Are
18
    you an attorney?
19
            THE WITNESS: No. I'm an accountant.
20
            MR. COLE: Certified public accountant?
21
            THE WITNESS: No. I have an accounting
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    degree.
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            MR. COLE: Thank you.
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            BY MR. GICALE:
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Q So you were basing your analysis on this provision 23-37-401 and the rule that was in Act --

A I thought that would be the better way to go. First of all, I requested that one of our attorneys look at this and give his opinion, which would be applicable. Although at the bottom half of my opinion, I thought the way to do it would be under the wild card provision because federals could do it at the time and the statute allows our association to do anything the federals could do. Therefore, they could do it. But I thought that's the authority that would allow them to do it.

Q Which of these sections in that wild card provision did you think was applicable?

A It would be section 4, "adopt any business practice, procedure, method or system authorized by federal association doing business in the state except nothing herein will permit an extension of

21 state savings and loan branching authority beyond the

22 limitations of state law."

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1	Q Now, did federal associations during that	
2	time period authorize this type of practice,	
3	procedure or method?	
4	A Yes.	
5	Q The granting of preferred stock?	
6	A Uh-huh.	
7	Q So as to be clear, the rule	
8	A It's just a paraphrase of that.	
9	Q that you referred to is rule 3; is that	
10	correct?	
11	A That's right.	
12	Q And the preamble to that says "pursuant to	
13	Act 242 of the general assembly of the state of	
14	Arkansas for 1969 the savings and loan association	
15	hereby adopts the following regulations." And were	
16	you referring to section C of that regulation?	
17	A Yes.	
18	Q And that states as follows could you	
19	read that?	
20	A Section C is "adopt any business practice,	
21	procedure, method or system authorized by a federal	
22	association doing business in the state."	
		24
1	Q Now, earlier you also referred to a section	
2	of the law that authorized permanent capital stock.	-
2	of the law that authorized permanent capital stock. And I'm going to show you section 18 of Act 227, and	-
2 3 4	of the law that authorized permanent capital stock. And I'm going to show you section 18 of Act 227, and if you want, we can go off the record for a minute.	
2 3 4 5	of the law that authorized permanent capital stock. And I'm going to show you section 18 of Act 227, and if you want, we can go off the record for a minute. (Discussion off the record.)	
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1 section until all liabilities of the association 2 shall have been satisfied in full without the 3 withdrawal value of all savings accounts."

Now, how did you view the issuance of preferred stock compared to the permanent capital stock? What did you view to be the difference between the two?

Α The difference between common stock --

9 0 As defined in this section and as requested 10 by the Rose Law Firm.

11 MR. COLE: If you had a view, Mr. Handley. 12 I mean, number one, you're not an attorney. And

Mr. Gicale is entitled to get all the facts here, but

14 he's essentially asking you for a legal opinion. If

15 you were meaning to convey that in your memorandum,

16 that's fine. But if you were referring this to an

17 attorney and citing some statutory sections, you can

18 tell him that as well.

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19 THE WITNESS: Well, there are two different 20 classes of stock that would have different terms and different values to them, and I wanted to get an 21

22 opinion. But really, in my view, when I wrote the

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memo, the view was different between common stock and preferred stock, which preferred stock has a stated rate and has preference to liquidation value where 4 the common or capital stock doesn't. 5

BY MR. GICALE:

Well, specifically, the letter of April 30, 1985, the first paragraph says "Madison Guaranty, a savings and loan chartered under the laws of the state of Arkansas contemplates a capitalization plan whereby it would authorize and issue a class of nonvoting preferred stock which would have preference as to dividends and amounts paid in liquidation."

Right. That's what a preferred stock is. Α

14 Now, wouldn't that be inconsistent with 15 section 23-37-303, which defines permanent capital 16 stock and says that that -- when issued, it may not 17 be retired or withdrawn except as provided in the section until all liabilities of the association 19 shall be satisfied in full?

20 MR. COLE: I'd like to state for the 21 record -- and obviously he can go ahead and answer, 22 but I don't think it's appropriate to ask this

27 1 witness to perform a legal analysis beyond what is 2 stated in his memorandum. And an argumentative 3 exchange with him as to what the law is is 4 inappropriate in view of the fact he was not an 5 attorney and wrote a memo specifically indicating 6 that this matter should be reviewed by an attorney. 7 If you can answer the question, go ahead, 8 but I just wanted to put that on the record. 9 THE WITNESS: I agree with your position. 10 That's the reason I wrote this memo, was to get a 11 question on that because I did think there may have 12 been a conflict, because as I said in the memo. 13 that's the issue of what we're talking about, is our act on its face speaks only of capital or common 14 15 stock. However, there is another provision which would allow them to do anything a federal can do and 16 17 a federal could issue preferred stock, and in here 18 they cited a corporate statute -- a corporation code 19 statute which says that Arkansas corporations could 20 issue the stock. 21 So I mean, we had some kind of conflicts 22 there, and that's what I was trying to get resolved 28 1 since I wasn't an attorney, and that's what that memo 2 addresses, and that's what it says. 3 BY MR. GICALE: 4 I understand. I mean, you will admit at 5 this point that there was a conflict based on what 6 you observed or knew the law to be? 7 That's what the memo says, I think. 8 MR. COLE: And I think that's what you said 9 in your testimony moments ago. BY MR. GICALE: 10 11 Q Do you know after you suggested to Beverly and Nancy in this memo that perhaps one of the 12 attorneys should review it, whether or not they had 13 14 anybody review it?

After if you wrote this note, did you have a conversation with Beverly and Nancy about this? Yes, I did.

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named Bill Brady.

Yes. They gave it to one of our staff --

Beverly gave it to one of our staff attorneys who was

How soon after you wrote the note? Q

I mean, I can't remember specifically

29 because it was a long time ago, but shortly after it, 1 2 within a day or two. 3 Did Beverly and Nancy call you in and say 4 could you explain what you meant by all this or was 5 it after they had sent it to an attorney? 6 I mean, I don't know when Beverly gave it 7 to the staff attorney. I mean, so I can't answer 8 that question. The way I recall the way this 9 happened was I gave this memo that we just discussed. 10 the May 6th memo, to Nancy and Beverly, and Nancy 11 replied back to me in written memo. And after I got 12 Nancy's memo, I went to Beverly's office and talked 13 to her about it. That's the way I recall what 14 happened after that. 15 I'm going to show you what's marked for 16 identification as Exhibit 5 000290. Do you recall 17 this note? 18 Α Yes. This is a reply note from Nancy 19 Jones, the chief examiner, to my May 6th memo. 20 And this would be Nancy Jones's 21 handwriting? 22 Α Yes. 30 1 And these are -- there's some handwriting 2 at the top that says "Bradley -- please review in 3 draft response to Hillary." Do you know whose 4 handwriting that is? 5 That's Beverly's. That's her handwriting; correct? 6 0 7 Α Uh-huh --8 MR. COLE: Does it say Bradley or Brady? 9 THE WITNESS: Brady, the staff attorney. 10 She had given it to Bill Brady. 11 BY MR. GICALE: 12 That's Beverly Bassett's note on top which 13 states "please review in draft response to Hillary." 14 Then the initials right under that, those are 15 Nancy's; is that correct? 16 Α Right. 17 And the date 5/6/85, that's Nancy's 18 handwriting as well? 19 A Right. 20 The first paragraph states "I agree with

Charles that this must be permanent capital stock

payable in liquidation after savings accounts, I

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believe it would be." And then 2, "I disagree with

Charles it has to be done under the wild card statute. I believe the Rose Firm's analysis

regarding ordinary business corporations is

correct." And with respect to number 3, she says

"the problem not addressed by the Rose Firm is the nonvoting portion. I don't know if capital notes

authorized under federal statute is nonvoting, but

the preferred stock is a similar debt equity instrument." Now, was Nancy a lawyer at the time?

A No. Nancy is a CPA.

Q Do you know what she was referring to in paragraph 3 beyond what she wrote there or can you explain it?

A Let me read that again. I think I know what she's doing. As I told you, the federals had recently been allowed to issue preferred stock. And the question was -- they had to meet certain requirements in the issuance of the preferred stock before that stock could be counted towards their capital, and I think that's what she's trying to address, whether she met all the -- whether they

would meet all the requirements set by the Federal Home Loan Bank on the issuance of the preferred stock. They had some specific things they had to meet before they could issue and be counted as capital.

Q What were those specific things?

A I mean, I don't know, but I think that's what she's saying is that, you know, we need to -- there may have to be voting and nonvoting to count as capital. In fact, we need to look into that. In her fourth section she says that specifically, number 4 in her memo. We have to go through our registration and the FSLIC who set the regulations for whether the preferred stock would count towards their capital requirements or net worth requirements.

Q So these were questions that she was raising at that point in a note to you?

A Yeah

Q After she wrote this note to you, what is the next thing that you recall happening on this?

A I went in and talked to Beverly about it.

Q Was Nancy present?

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        A I don't remember specifically, but I don't
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    think so.
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            When you first got the note, was there this
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    note to Brady at the top?
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        A I mean, I can't remember when I got it.
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            If you remember. All right.
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            MR. COLE: Mr. Gicale, you referred to this
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    as a note to Mr. Brady, and it's not clear to me from
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    the face of the document that it was a note to him.
    In fact, since it refers to him in the third person
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    in the first sentence, I would assume that it was a
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    note to someone else, perhaps Ms. Bassett. I just
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    want to be clear on the record what the
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    communications were here.
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            MR. GICALE: Well, there is a note at the
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    top that says "Brady -- please review in draft
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    response to Hillary." All I want to know is whether
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    or not that was on this note --
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            MR. COLE: I'm asking a different question
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    because when you asked Mr. Handley that question, you
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    said "in this note to you" and I didn't read this as
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    a note to --
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            MR. GICALE: I believe he testified it was
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    a note to him.
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            MR. COLE: That's my question because I
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    read it as a note, I presumed, to Ms. Bassett from
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    Ms. Jones. That's the question.
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            MR. GICALE: Let's clarify that.
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            BY MR. GICALE:
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        O Is this a note to you or was it a note to
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    Beverly Bassett?
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             I mean, the way I recall it is Nancy gave
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    it to us. It was addressed to Beverly, but she gave
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    us copies at the same time.
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            MR. COLE: That was my question.
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            BY MR. GICALE:
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             I agree with Mr. Cole. The first paragraph
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    says "I agree with Charles." So it sounds like she
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     was --
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             Right, but she gave it to us at the same
        Α
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     time. It was addressed to Beverly, but I did get a
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     copy.
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             MR. COLE: I just wanted to clarify that.
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BY MR. GICALE:

1 All I'm trying to determine was whether or not you recall --2

And I don't know how that note to Mr. Brady that Beverly put on there got on there. I don't know.

6 0 In any event, after you received the note, 7 you went in to talk to Beverly Bassett about it; 8 correct?

9 A Right.

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And do you recall whether or not Nancy was present or whether or not you had a conversation --

A I don't really recall, but I don't think 12 she was because Nancy -- as I recall, Nancy's opinion 13 is stated here, and we already had it. 14

Did you talk to Nancy about her opinion after you saw the note?

17 Right, and as I recall, I generally agreed 18 with her, so I didn't think Nancy had to be in there, 19 if there's no conflict about her opinion. That's the reason she was in when I went in and talked to 20 21 Beverly.

22 Do you know -- did Nancy tell you why she

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disagreed with you about the use of the wild card 2 statute?

I mean, I think what she states in there is that she agrees with the Rose Law Firm. That's the best they could do on it and the wild card statute wouldn't be that. I think that's what she says in her memo.

8 Q Did she say anything more to you about it 9 in her conversation?

10 No, I think it's pretty clear stated 11 there. This is a conversation that happened over 10 12 years ago.

13 I understand. So now, after you received 14 the note, after you've had the conversation with 15 Nancy, you go in to see Beverly Bassett and what 16 happens?

We discussed it and she told me she agreed with Nancy and they could do it under the -- they could do it under the business corporation code 19 statute as proposed by that. 20

Now, Beverly Bassett is and was a lawyer; right?

A That's right.

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Q In that conversation, did you discuss the inconsistency between the provisional allowing for permanent capital stock and how that would affect depositors and preferred stock?

A No. I don't think we discussed the conflict on that because she was an attorney. That's what I asked in my memo, would be for an attorney to address that issue and she was an attorney. She addressed it.

Q Now, earlier when you wrote a memo to her of the same date, May 6th, you had suggested that one of your attorneys should review the matter. By the time you went in to see Beverly Bassett, had she had Mr. Brady review it or did that come later?

A It didn't come up. I don't recall ever discussing that. I mean, I remember I was happy -- she's an attorney, and she was the commissioner, and that was her position.

Q So her position was basically she had your note to her, and she had this note from Nancy. You discussed both notes, and she said she agreed with

1 Nancy?

A Right.

MR. COLE: And presumably, she had the April 30, 1985 letter from the Rose Law Firm.

THE WITNESS: She did.

BY MR. GICALE:

Q Earlier, I believe you testified that she did refer it to Brady to review.

A That's right.

MR. COLE: Do you have an independent recollection of that, or are you basing that solely on what you read?

THE WITNESS: On this note.

MR. COLE: Let's try to distinguish between what you recall and what you're reading from a document for our record.

BY MR. GICALE:

18 Q Do you recall whether or not she referred 19 it to Mr. Brady? 20 A I can't remember. I think at the meeting

A I can't remember. I think at the meeting she told me she had.

Q And did she tell you what Mr. Brady's

39 1 position was on that? 2 I don't recall that she did. Α 3 Did you talk to Mr. Brady about it? 0 4 Α No. 5 0 How many attorneys were working in your 6 section at that time? 7 Α Well, we probably had four attorneys 8 working for the whole department. I mean, everybody kind of did everything. We had four attorneys 9 10 available. 11 0 What was Mr. Brady's area of expertise or 12 responsibility? 13 He was a staff attorney that handled all legal matters regarding all the acts that we did. It 14 was just a staff attorney that handled any legal 15 16 questions or opinions, as I recall. 17 So you don't recall talking to him about this? 18 19 Α No. And you don't recall talking to Beverly 20 0 21 Bassett about his review of this? 22 No, because Beverly is an attorney. She 40 1 was the commissioner. 2 Did you discuss the risk to depositors of 3 issuing preferred stock like this? 4 No. 5 O Was that a concern? 6 The risk to the depositor for issuing -- I 7 didn't think there would be a risk to the depositors. 8 Well --0 9 Α There would only be half depositors. I 10 don't think it would hurt the depositors. It would 11 be a benefit to issue the stock. It would put more 12 capital in there and make the institution more 13 solvent, more steady. It wouldn't hurt the 14 depositor. It would help the depositor, in my 15 opinion. 16 Wouldn't preferred stockholders have

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stockholders --

priority, more priority than permanent

depositors and stockholders.

That's not the depositors --

debate but there's a big difference between

MR. COLE: I don't want to get into a legal

THE WITNESS: Depositors and stockholders, they're two different classes, distinct people.

MR. COLE: And just to be clear for the record, Mr. Handley, there's nothing in the statutes that we have been looking at that would indicate any risk to depositors arising solely out of the issuance of preferred stock, which I think was suggested in Mr. Gicale's question.

THE WITNESS: No, and as I said, it would benefit the depositors. It would make the institution more stable and a form issuing --

BY MR. GICALE:

 Q Again, referring to the section with respect to permanent stock, it says "permanent stock, when issued, may not be retired or withdrawn except as provided in the section until all liabilities of the association shall have been satisfied in full including withdrawal and value of all savings accounts."

A That's right. The depositors would come before this.

MR. COLE: The issuance of preferred stock

as a question would not affect the fact that the depositors would still come first in preference before permanent capital stock.

THE WITNESS: They wouldn't be hurt by this. It would help. And that's the whole -- I mean, I was for doing it. It's just whether they could do it or not. One of our positions, we were trying to get capital in this association and this is one way to do it.

BY MR. GICALE:

Q When the letter referred to preferred stock which would have preference as to dividends and amounts paid in liquidation --

A That's a stock hold. I don't think you understand the difference between stockholders and depositors.

Q Explain what you meant.

A Depositors are the people who put money in the insured savings accounts and CDs. Stockholders are those who put capital in there and take a risk by the stock whether they turn a profit or not and they are not insured by the FSLIC.

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43 When this refers to amounts in liquidation, 1 2 what did you believe that refers to? 3 Stockholders who are at risk, who are not Α 4 insured. 5 MR. COLE: Can we go off the record for a 6 minute. 7 (Discussion off the record.) 8 BY MR. GICALE: 9 Do you recall -- this is May 6th. The next -- do you recall having any further 10 conversations with Beverly Bassett or Nancy Jones 11 12 about this? 13 Α No. 14 What's the next thing you recall occurring? 0Getting a copy of letter Beverly sent to 15 16 the Rose Law Firm concurring with the opinion raised 17 in the April 30 letter. 18 I'm going to show you what's marked for 19 identification as 5000288, a copy of a letter dated 20 May 14, 1985, although this appears to be a draft. and it's to Hillary Rodham Clinton regarding 21 authorization issuance of class of preferred stock. 22 44 1 Now, again, this is not on securities 2 department stationery and appears to be a draft. Did 3 you see this in draft form and is this the letter 4 you're referring to? 5 I've never seen this draft. 6 MR. COLE: Do you recognize the handwriting 7 in the upper right corner? 8 THE WITNESS: Yes. 9 BY MR. GICALE: 10 Q Whose is it? 11 Α That is mine, so I guess I did see it. 12 0 Were you requested to draft the letter for Beverly Bassett? 13 14 Α No. I didn't draft it. 15 Did she give it to you to review before it 16 went on securities department stationery? 17 No. I got it after she had issued it, but 18 this is the way -- this is really not a draft. We don't put it on a letterhead. This is our file copy. 19 20 MR. COLE: So the practice in your office 21 is even though a letter may go out of the office

signed, the internal copies won't bear the letterhead

45 1 or the signature? 2 THE WITNESS: Right. 3 MR. COLE: I would note for the record this 4 is not marked "draft." So your interpretation is 5 that it's a copy -- essentially a copy of the final 6 letter? 7 THE WITNESS: Yes. 8 MR. COLE: Thank you. 9 BY MR. GICALE: 10 O I'm going to show you what's marked for 11 identification number 10786. The text appears the 12 same, May 14, 1985, a letter to Hillary Rodham 13 regarding an issuance of a class of preferred stock. 14 This is signed by Beverly Bassett. Did you see this 15 letter signed -- this is a signed copy it, and I'll 16 represent to you this is signed and there are some 17 notations on it. 18 This is not our copy. This didn't come 19 from our files. 20 Did you see a signed version of this letter 21 before it went out? 22 No, as I told you, it's our policy to keep 46 1 an unsigned copy which is the same as this one. 2 Q I know what your policy is. Did you see a 3 signed copy before it went out? 4 Α No. 5 MR. COLE: Was that unusual, just for the 6 record? 7 THE WITNESS: No. That's standard 8 operating procedure. 9 BY MR. GICALE: 10 And you didn't have anything to do with 11 drawing it up? 12 No. A 13 You did not review it before it went out? 14 No. I just got the copy after she made it 15 to put in the file. Do you recall how soon after you wrote the 16

Q Do you know --A Again, that's 10

two days.

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A Again, that's 10 years ago.

you discussed it with Beverly Bassett?

note on May 6, 1985 to Beverly Bassett and Nancy that

It may have been that day or within one or

47 1 I understand. There's a period of time 2 about a little over a week and a day that it took to 3 write the letter. Is there anything that occurred during that time period that you can recall with 4 5 respect to the analysis of the legal opinion? 6 No, as I told you -- as I recall, the 7 matter was settled with Beverly and it was either that she would -- she would draft the letter or the 8 attorney would draft the letter and she would ask me 9 10 to draft a letter, but as I said -- as I recall, she 11 gave me a copy of the letter she sent and that's what 12 I got after the meeting with Beverly. I mean, I would have drafted the letter if she asked me to, but 13 14 she didn't ask me to. 15 MR. COLE: Mr. Gicale, I don't want to 16 obviously interfere with your examination, but I do 17 have an earlier document that came from the documents 18 that have been produced to the committee that appears to be Mr. Handley's handwriting. I'm not sure if 19 20 you're aware of it. MR. GICALE: Can we go off the record for a 2.1 22 second. 48 (Discussion off the record.) 1 2 BY MR. GICALE: 3 Showing you what's marked for 4 identification as a document marked as RS 000700 5 through 702, and it is a document dated April 3, 6 1984. There's a slash through it and there's a 5 in 7 the right-hand corner. It's from Charles to 8 Beverly. Can you identify this for us. 9 It's a copy of a memo dated April 3, 1985 10 to Beverly from me. 11 That's in your handwriting; is that 0 12 correct? 13 Α Yes. 14 Can you just take a moment to review that 15 and tell us how that memo came about. 16 (Witness reviewed document.) 17 This memo -- to paraphrase a conversation that I had with the -- with Mr. Fitzhugh who worked 18 19 for Madison Guaranty Savings & Loan regarding the our 20 conversation of -- regarding his association issuing

When did you have that conversation with

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preferred stock.

49 1 Mr. Fitzhugh, that same day? Excuse me, I didn't have it. One of my 2 3 employees did. Rick Weaver had the conversation and Rick told me about it. But this said on the same day 4 5 of the memo, April 3, 1985. Fitzhugh had called your employee; correct? 6 7 Α Right. 8 And asked to do what? 0 -9 He asked what was needed -- he wanted to issue preferred stock and what forms was necessary to 10 11 be filed to do so. 12 Q Was this the earlier Fitzhugh conversation that you referenced in your testimony? 13 14 A Yes. 15 0 So it was not directed to you. It was with 16 one of your employees; correct? 17 A Right. 18 0 And were there any other savings and loans 19 that had issued preferred stock in Arkansas at the 20 time? 21 Α No state charters 22 This would have been the first; correct? Q 50 1 A Yes. 2 O Was there a discussion about that with 3 Mr. Fitzhugh?

3 Mr. Fitzhugh? 4 A He to

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A He told an employee that he had heard that some state charters had, and we told him that they hadn't.

Q At the time you told -- this says "I advised Mr. Fitzhugh that we" --

9 A I think the way it went, he phoned Rick.
10 Rick asked me to phone him back and I did phone
11 Fitzhugh back.

12 Q You actually did have a conversation with 13 Fitzhugh?

A Yes, after Rick had told me to phone him back.

Q Now, in the second paragraph of the first page, you say that "I reviewed the S&L statutes and phoned Mr. Fitzhugh back and told him it was my opinion that Arkansas statute annotated 67-803 and 67-1818 (see attached) only provides for the issuance of permanent capital stock or common stock in a stock of permanent capital stock or common stock in a stock of permanent capital stock or common stock in a stock or common stock or common stock in a stock or common stock or common stock in a stock or common stock or common stock in a stock or common stock or common stock in a stock or common stock in a stock or common stock or common

21 of permanent capital stock or common stock in a stock

22 association."

Now, did you talk about the wild card statute at that point, or is that your reference later on?

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Α I don't think it's mentioned in this. I told him we'd be glad to listen to his opinion while they could, and I think that's what the letter from the Rose Law Firm came from.

But did you talk to him at all about the wild card provision?

I don't recall it, but the memo doesn't say 10 11 that

12 When you later referred to Arkansas statute 0 annotated 67-181 -- and I can't see the last digit 13 and it says 67-1801 and 67-1832, what did those 14 sections deal with and why were you referring to? 15

I don't have them memorized by heart, but I would think that those statutes dealt with mentioning capital stock.

19 So based on your review of these notes and your recollection at this point, you don't recall 20 having a conversation with Mr. Fitzhugh about this 21

22 possibly fitting under the wild card statute?

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I don't recall that, but again, I don't know what those statutes are.

MR. COLE: Just to read the next line, it indicates "copies attached" in parentheses. Does that indicate that you sent copies of those statutes to Ms. Bassett with this memorandum?

THE WITNESS: Yes.

MR. COLE: I think it would be helpful to identify, if we can, from the statute book that we have here -- perhaps we could do this off the record what the statutes are -- that were provided to Ms. Bassett.

(Discussion off the record.)

BY MR. GICALE:

14 15 Now, again referring -- we've had some discussion off the record with respect to your note 16 of April 3, 1985, and you cited some sections on the 17 first page of the second paragraph of the first page 18 19 and some sections on the last paragraph of the second page. These were -- and at the time these were 20

21 dealing with the issuance of permanent stock; is that

correct? 22

A I believe the attachments I made there -the statutes dealt with the issue of saying only
permanent capital stock.

permanent capital stock.O But to be clear.

 Q But to be clear, you were not discussing with Fitzhugh the possibility of this coming under the Business Corporation Act or the wild card statute, which you later suggested to Beverly Bassett in May; correct?

A Correct.

Q Now, between the time you received this call or the time you talked to Mr. Fitzhugh on April 3rd, 1985, and the time you received the letter dated April 30, 1985 from the Rose Law Firm, did you have any other conversations with either people from Madison Guaranty Bank or the Rose Law Firm about this request?

A No.

Q Did you do any other research into whether or not this would be an appropriate request for the securities commission to grant?

A No, not until I got the April 30th letter from the Rose Law Firm.

Q Now, when you got the April 30th letter, what made you begin to start thinking about the wild card statute? Had you done some further research into it?

A I just thought about it because that's a pretty broad statute. They can do anything the federals can do, and I do remember the feds -- as I said, the feds had allowed federal associations to do it. I just remembered that.

Q At that point, May 6th -- I'm sorry, April 30th when you got the letter, do you recall whether someone else suggested to you that the wild card statute might be appropriate?

A No one did.

Q Now, after seeing this letter go out or a copy of this letter dated May 14, after seeing a copy of the letter, did you have any other further conversation with anyone from Madison Guaranty Bank or Beverly Bassett or the Rose Law Firm about the issuance of preferred stock by Madison Guaranty?

- A We had a lot of conversations after that.
- Q What was the next one that you recall?

I can't remember the specific day. 1 Α 2 What was the next conversation you recall 3 having after this letter was sent out by Beverly 4 Bassett -- let's go back to the letter for a minute. 5 The letter states, second paragraph -- and 6 is addressed "Dear Hillary" -- it states "'I agree 7 with your analysis and conclusion of the question 8 whether an Arkansas chartered savings and loan 9 association may under Arkansas law create, authorize 10 and issue a class of preferred stock." It further 11 goes on to say "Arkansas law expressly gives state 12 chartered associations all the powers given regular 13 business corporations under the Arkansas Business 14 Corporation Act including power to authorize and 15 issue preferred capital stock. Further, there is no express prohibition against such action contained in 16 17 the Arkansas laws as govern building and loan and 18 savings and loan associations accordingly. As the 19 savings and loan supervisor, I concur in your opinion 20 that Madison's proposed capitalization plan is not

Now, did you agree with her statement in

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that letter?

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A Uh-huh.

inconsistent with Arkansas law."

Q After that letter was sent out, what is the next conversation you recall having about this request for preferred stock?

A I can't remember specifics, but we had several meetings and memos and concerns about what amount of stock should be issued based upon the net worth and the financial condition.

Q How soon after was there a request for Madison -- for approval to engage in activities -- broker/dealer activities?

A I don't remember the specific dates, but I recall pretty soon after the --

Q I'm going to show you what's marked for identification as exhibit -- unfortunately, this is in the 84 series, and there's no Bates number. It's a letter dated May 14, 1985.

Off the record.

(Discussion off the record.)

21 BY MR. GICALE:

Q Showing you what's marked for

- 1 identification as Exhibit Number 84, a letter dated
- 2 May 14, 1985 to Charles Handley from Richard Massey
- 3 regarding Madison Guaranty Savings & Loan
- 4 Association. I'm also going to show you what's
- 5 marked for identification as Exhibit Number 5, 00070
- 6 through 81. And I believe this is attachment to that
 - letter. Can you identify those for us.

A This is a cover letter, an application filed with the savings and loan board to have a broker/dealer subsidiary.

Q This is the same date that the -- of the letter we previously discussed to Hillary Rodham Clinton regarding approval by Beverly Bassett of the preferred stock request; correct?

A Yes.

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19 20 Q Was there some simultaneous discussion with respect to this broker/dealer request that you recall?

A I can't remember when it occurred, but the whole gist of it is that this association had very low net worth. One meeting in the benchmark set by the feds and throughout the whole deal we were trying

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1 to get them to do things that increase their net

- 2 worth and their financial condition, and I think the
- 3 response was issued of the preferred stock which
- 4 would increase their capital. And another one of 5 their things they proposed to do and improve their
- 5 their things they proposed to do and improve their
- 6 net worth and financial condition was to have a
 7 broker/dealer which would supposedly generate m
 - broker/dealer which would supposedly generate more net profit, which would increase their net worth and
- net profit, which would increase their net worth andmaybe a system setting their preferred stock plan.

I can't remember when we discussed those issues specifically, but that was -- this was their response into us to staying on their case about having bad net worth.

Q Well, was the request for preferred stock a response to you being on their case for their net worth problems?

A Yes, and the Federal Home Loan Bank. I believe at this time the Federal Home Loan Bank had entered into a supervisory agreement which indicated -- because they had low net worth, and they

21 agreed to do certain things and take certain steps,

22 and I think that was in response to the Federal Home

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1	Loan banks, supervisory agreement.	
2	Q The supervisory agreement was 1984; is that	
3	correct?	
4	A I don't have it. I don't remember.	
5	Q Do you remember reviewing it?	
6	A Yes.	
7	Q I'm going to show you what's marked for	
8	identification as Exhibit 99000269 through 99000290.	
9	Is this a copy of a "Report of special limited	
0	examination." It has an examination date of January	
1	20, 1984 and this is with respect to Madison Guaranty	
2	Savings & Loan Association.	
3	Do you recall receiving and reviewing that	
4	examination report?	
5	A Yes.	
6	Q Now, did your responsibilities include at	
7	that time reviewing reports from institutions like	
8	Madison Guaranty related to Federal Home Loan Bank	
9	Board examinations?	
0.9	A Yes.	
2.1	Q How involved were you in that process in	
12		
22_	general?	
		60
1	A Very involved.	60
1 2	A Very involved. Q But what were your duties? Did you go to	60
1 2 3	A Very involved. Q But what were your duties? Did you go to banks and do actual examinations? Did you review	60
1 2 3 4	A Very involved. Q But what were your duties? Did you go to banks and do actual examinations? Did you review reports? What exactly did you do?	60
1 2 3 4 5	A Very involved. Q But what were your duties? Did you go to banks and do actual examinations? Did you review reports? What exactly did you do? A I reviewed the files made by savings and	60
1 2 3 4 5 6	A Very involved. Q But what were your duties? Did you go to banks and do actual examinations? Did you review reports? What exactly did you do? A I reviewed the files made by savings and loan associations and the Federal Home Loan Bank in	60
1 2 3 4 5 6 7	A Very involved. Q But what were your duties? Did you go to banks and do actual examinations? Did you review reports? What exactly did you do? A I reviewed the files made by savings and loan associations and the Federal Home Loan Bank in our office which would include financial reports and	60
1 2 3 4 5 6 7 8	A Very involved. Q But what were your duties? Did you go to banks and do actual examinations? Did you review reports? What exactly did you do? A I reviewed the files made by savings and loan associations and the Federal Home Loan Bank in our office which would include financial reports and examination reports.	60
1 2 3 4 5 6 7 8 9	A Very involved. Q But what were your duties? Did you go to banks and do actual examinations? Did you review reports? What exactly did you do? A I reviewed the files made by savings and loan associations and the Federal Home Loan Bank in our office which would include financial reports and examination reports. Q Did you report any examinations yourself?	60
1 2 3 4 5 6 7 8 9	A Very involved. Q But what were your duties? Did you go to banks and do actual examinations? Did you review reports? What exactly did you do? A I reviewed the files made by savings and loan associations and the Federal Home Loan Bank in our office which would include financial reports and examination reports. Q Did you report any examinations yourself? A Not on Madison. I had in the past.	60
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1 2 3 4 5 6 7 8 9	A Very involved. Q But what were your duties? Did you go to banks and do actual examinations? Did you review reports? What exactly did you do? A I reviewed the files made by savings and loan associations and the Federal Home Loan Bank in our office which would include financial reports and examination reports. Q Did you report any examinations yourself? A Not on Madison. I had in the past. Q Did you have examiners in the office at the time that were performing examinations?	60
1 2 3 4 5 6 7 8 9 10 11 12	A Very involved. Q But what were your duties? Did you go to banks and do actual examinations? Did you review reports? What exactly did you do? A I reviewed the files made by savings and loan associations and the Federal Home Loan Bank in our office which would include financial reports and examination reports. Q Did you report any examinations yourself? A Not on Madison. I had in the past. Q Did you have examiners in the office at the time that were performing examinations? A No, not at the time.	60
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1 2 3 4 5 6 7 8 9 10 11 12 13 14	A Very involved. Q But what were your duties? Did you go to banks and do actual examinations? Did you review reports? What exactly did you do? A I reviewed the files made by savings and loan associations and the Federal Home Loan Bank in our office which would include financial reports and examination reports. Q Did you report any examinations yourself? A Not on Madison. I had in the past. Q Did you have examiners in the office at the time that were performing examinations? A No, not at the time. Q In 1984 and 1985, was the commission responsible for examining savings and loans, state	60
1 2 3 4 5 6 7 8 9 10 11 12 13 14	A Very involved. Q But what were your duties? Did you go to banks and do actual examinations? Did you review reports? What exactly did you do? A I reviewed the files made by savings and loan associations and the Federal Home Loan Bank in our office which would include financial reports and examination reports. Q Did you report any examinations yourself? A Not on Madison. I had in the past. Q Did you have examiners in the office at the time that were performing examinations? A No, not at the time. Q In 1984 and 1985, was the commission responsible for examining savings and loans, state savings and loans?	60
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1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17	A Very involved. Q But what were your duties? Did you go to banks and do actual examinations? Did you review reports? What exactly did you do? A I reviewed the files made by savings and loan associations and the Federal Home Loan Bank in our office which would include financial reports and examination reports. Q Did you report any examinations yourself? A Not on Madison. I had in the past. Q Did you have examiners in the office at the time that were performing examinations? A No, not at the time. Q In 1984 and 1985, was the commission responsible for examining savings and loans, state savings and loans? A Yes, or we could accept our Federal Home Loan Bank exams. Our act provides that and that's	60
1 2 3 4 5 6 7 8 9 10 11 12	A Very involved. Q But what were your duties? Did you go to banks and do actual examinations? Did you review reports? What exactly did you do? A I reviewed the files made by savings and loan associations and the Federal Home Loan Bank in our office which would include financial reports and examination reports. Q Did you report any examinations yourself? A Not on Madison. I had in the past. Q Did you have examiners in the office at the time that were performing examinations? A No, not at the time. Q In 1984 and 1985, was the commission responsible for examining savings and loans, state savings and loans? A Yes, or we could accept our Federal Home	60

Federal Home Loan Bank Board's exams and that's what

61 1 you did; is that correct? 2 Not accept. The results we could actually 3 accept the exam reports in lieu of ours. 4 The reports? O 5 Α Yes. 6 And that's what you did throughout '84, '85 0 7 and '86? 8 Α And sometime prior to that. 9 How many institutions were you responsible for during '84 and '85 and '86, if you recall? 10 11 I don't remember specifically. I mean, a 12 guess would be 14, 15. 13 Were you the only one reviewing these 14 reports, or was there someone else reviewing them? 15 No. I was the only one primarily 16 responsible for reviewing them. I'd make 17 recommendations of my findings to Nancy and Beverly. 18 How frequently would you receive these 19 reports? 20 I don't know which one you're talking Α 21 about. 22 Q What kinds of reports were you receiving to 62 1 monitor these banks in '84, '85 and '86? 2 Quarterly reports prepared by the 3 association, audited financial statements, which was 4 prepared by the independent CPAs for the association 5 and the examination reports, which I believe at the 6 time from the Federal Home Loan Bank had to be done 7 within 18 months, and they would do them sooner on 8 the bad ones. 9 How frequently would you get the audited 0 10 financial statements? 11 Α Annually. 12 MR. COLE: By "bad ones," do you mean those 13 experiencing some level of financial difficulty? 14 THE WITNESS: Yes.

20 Q And then any Federal Home Loan Bank Board 21 examination reports? 22 A Uh-huh.

O So three kinds of reports, a quarterly

report and an annual financial statement -- an

BY MR. GICALE:

audited financial statement?

Uh-huh

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Q When this January 20th, '84 examination occurred, you received a copy of this report. And this is a part of your normal duties; you reviewed it; correct?

A Uh-huh.

Q And I'm going to direct your attention to page -- the third page of this report document 271 under the double lines where it says "report summary." There are three paragraphs of conclusions. The first one states "the viability of the institution is jeopardized through the institution's current investment and lending practices in real estate development projects."

Second paragraph states "there is a concentration of assets and loans in land and development type properties. Prudent investment practices have not been utilized in development projects and poor loan underwriting is characteristic on loans originated. These long-term investments and loans have been funded with short-term broker deposits."

Then the third paragraph reads "substantial

profits from the service corporation, the sales of real estate owned have been improperly recognized.

Such profits were recognized as a result of contract sales and submarket interest rates. Correcting interests will adversely affect net worth and result in an insolvent position."

Now, the examiner in charge at the time wa

Now, the examiner in charge at the time was Sarah Worsham; is that correct?

A That's who signed it, yes.

Q She later assumed a position at the bank; is that correct?

A That's right.

Q Her name was Sarah Hawkins subsequent to that; correct?

A Correct.

Q So as of this date, you were aware of the fact that if these entries were corrected, they could adversely affect net worth and result in an insolvent bank?

A That's what the exam report said, but the associations in reply to this filed a response that disagreed with that and the Federal Home Loan Bank

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1	agreed that they didn't have to make those entries	
2	based on the response, so they were never insolvent.	
3	Q Now, I'm going to show you what's marked	
4	for identification as Exhibit 99001040 through 1048.	
5	This is a supervisory agreement entered into with	
6	Madison Guaranty, and this is a supervisory agreement	
7	that you earlier referred to; is that correct?	
8	MR. FROMEWICK: Can we go off the record	
9	for a second?	
0	(Discussion off the record.)	
1	THE WITNESS: Yes.	
2	BY MR. GICALE:	
3	Q That's the supervisory agreement that you	
4	referred to earlier?	
15	A Uh-huh.	
6	Q Now, the first paragraph under the	
7	"therefore" section says that "Madison will comply	
8	with the minimum net worth requirements of insurance	
9	regulation 563.13, as currently set forth or as may	
20	be promulgated in the future"; correct?	
21	A Uh-huh.	
22	Q And the date of this agreement is August 6,	
	1004	66
1	1984, or at least it's signed August 6, 1984; is that	
2	correct?	
3	A I believe that's a final signature. I	
4	believe it's July 19, 1984 signed by the association,	
5	accepted by the FSLIC in August.	
6	Q In August of '84, okay. Now, net worth was	
7	a problem in July and August of 1984; correct?	
8	A And prior to that.	
9	Q And prior to that. And continued to be a	
10	problem for how long?	
l 1 12	A Forever, as long as the association existed.	
13		
14	Q You continued, then, to receive quarterly reports and audited financial statements from the	
15	bank from Madison Guaranty after this examination?	
LJ	valik from Mauison Quaranty after this examination?	
	A Vec	
16	A Yes.	
16 17	Q And what did they show the condition of the	
16 17 18	Q And what did they show the condition of the bank to be at the end of 1984, do you recall?	
16 17	Q And what did they show the condition of the	

Q And that 3 percent was a federal

1 requirement; correct?

A Yes.

Q Now, what remedies did you have available at the securities commission and did the Federal Home Loan Bank Board have when a banking institution like Madison Guaranty did not meet these requirements?

MR. COLE: I'm sorry. Are you asking for both the states and the federals or do you want to split that up?

BY MR. GICALE:

Q I'll split it up. What remedies did you have available when a bank like Madison Guaranty or Madison Guaranty did not meet the net worth requirement?

A Of the Federal Home Loan Bank?

O Yes.

A I don't think we'd have any remedy. The only remedy we'd have, and there are statutes received by our conservator if the association was deemed grossly -- operating in a gross and unsafe and unsound manner or the capital -- or become insolvent.

Q Now, what would your definition be of a

bank that's operating in an unsafe and unsound manner?

A In my mind, it would be becoming insolvent or the capital would be impaired.

Q Well, did you believe that Madison's capital was being impaired? I mean, starting in 1984, where there was an examination that said at first that they might be insolvent and having problems with net worth --

A They never were insolvent. We never had any financial proof that they were insolvent.

Q You had proof in July and August of 1986 that at a minimum, they had problems with their minimum net worth; correct?

A They were -- that there were a lot of associations that had low net worth and didn't meet the benchmark requirements, but they weren't insolvent.

Q But I'm talking about this association. You had evidence that this association had some minimum net worth problems as early as July and August 1984?

69 1 Right. And I think the Federal Home Loan 2 Bank took necessary steps to try and correct that. They entered into a supervisory agreement. We tried 3 4 to get them to issue preferred stock and increase 5 their capital. 6 MR. COLE: Just to make sure our record is 7 correct here, Mr. Handley, I understood your answer 8 to be -- when you stated the test for obtaining a 9 receivership under Arkansas law under vour statute. 10 that would be a test that would have to be satisfied 11 by your department in court to convince a court to 12 appoint a receiver. That's not something you had the 13 power to do. You would have to go to the court and 14 request that a court do that? 15 THE WITNESS: That's right. 16 MR. COLE: And I think Mr. Gicale, when he 17 asked you a follow-up question, asked it in a manner 18 that indicated that that was something that your 19 agency had the power to do, and as I understood your 20 answer to his question, you would have to go to a 21 court and make a showing and request a court to do 22 that. 70 1 THE WITNESS: Seek appointment from a 2 receiver. 3 MR. COLE: There's some pretty technical 4 legal concepts involved here and I think we need to 5 be as accurate as we can be. 6 BY MR. GICALE: 7 Did you believe based on the examination 8 report that you had received in '84 and the quarterly 9 reports that you received in '84 that Madison 10 Guaranty was operating in an unsafe and unsound 11 manner? 12 Α No, not grossly unsafe and unsound. 13 Does the statute require that it be grossly 14 unsafe and unsound? 15 Α I believe so. 16 MR. GICALE: Off the record. 17 (Discussion off the record.) 18 BY MR. GICALE: 19 Mr. Handley, at the time you received the 20 examination in 1984, there was a problem with net

worth. The examination also cited -- and I'm going

to refer to page 277 -- section 7 dealing with the

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71 1 service corporation. Do you see that? 2 Okav. A 3 The second paragraph of section 7 relating 4 to the service corporation says that "in 5 contravention of seconds VC, the investment had exceeded the limit authorized by the rules and 6 7 regulations of the Arkansas Savings and Loan Board. The outstanding investment on December 31, 1983 was 8 9 \$2,386,590 or 14.1 percent of the association assets. Arkansas statutes limits the investment to 6 10 percent of assets." 11 12 Do you recall being aware of that at the 13 time? 14 15 0 So there was a problem with net worth and 16 there was a problem with the investment in the 17 service corporation; correct? A Uh-huh. 18 19 What remedies did you have available as a 0 20 state agency to correct those problems? Well, what you do is you ask them to 21 22 address what they propose to do to correct those 72 1 things, like enter into this supervisory agreement. 2 The ultimate thing we could do if they become 3 insolvent or acted completely illegally or their capital is totally impaired, we could seek an action 4 5 in state court to get a receiver or conservator 6 appointed. 7 Short of having a receiver appointed, were 8 there any other remedies available to you at that 9 time? 10 Α Not that I know of. 11 Could you, for instance, ask the Federal 12 Home Loan Bank Board -- strike that. 13 Could you ask to have the officers removed 14 as you later did in 1986? 15 Not under our statutes. That was the 16 Federal Home Loan Bank Board statutes. Q Could you request the Federal Home Loan 17 Bank Board to have the officers removed? 18 19 We could request them to do almost

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Yes.

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anything, yes, under their statute.

And that was within their power; correct?

73 1 0 Did you ask them to do that in 1984? 2 No. Α 3 Q Why not? 4 Because the Federal Home Loan Bank chose to 5 enter into this supervisory agreement where they 6 agreed to correct all these things. Did you -- did the Federal Home Loan Bank 7 8 Board consult with you, your agency when they entered 9 into this agreement with Madison Guaranty in 1984? A As I recall, they talked to Beverly about 10 11 it. 12 0 This was entered in July or August of '84. 13 Beverly wasn't there at that point, was she? I can't remember when she came. Whoever 14 15 the commissioner was 16 O I believe you testified earlier that Lee 17 Thalheimer was there until September of 1984; is that 18 correct? 19 Α I think so. I'm sure the Federal Home Loan 20 Bank talked to Beverly, and we have a copy of it. I 21 think we have an unsigned copy of it, so they made it 22 available. I don't recall talking to them about it, 74 1 other than getting a copy of the proposed agreement. 2 And I'm sure Lee talked to the Federal Home Loan Bank 3 about it. 4 0 Lee Thalheimer? 5 Uh-huh, but you'll have to ask him that. 6 The agreement merely requires that they 7 will "comply with the minimum net worth requirements 8 as currently set forth or as may be promulgated in 9 the future " I think there's a whole bunch of the 10 Α 11 things --12 0 With respect to net worth, that is the 13 requirement of net worth. 14 Α Right. 15 Was there a date within which they were 0 16 supposed to comply with this requirement? 17 I'm not familiar with the whole agreement, 18 but it speaks for itself. 19 MR. COLE: This was not an agreement 20 between your department and Madison Guaranty;

THE WITNESS: No. We were just a -- I

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correct, Mr. Handley?

think we got a draft copy of it, and we agreed with what they were doing, as I recall, and it was entered into

BY MR. GICALE:

- Q At any point in time after reviewing this agreement, did you have any disagreement with how the Federal Home Loan Bank Board was attempting to resolve this problem?
 - A With the Federal Home Loan Bank Board? No.
- Q You felt that their course of conduct was appropriate at that point in time?

A Right. We got copies of and was following it and we also asked the association to improve their capital. There's letters in there to do it also.

Q Now, what conversations do you recall -after the supervisory agreement, what conversations
do you recall having with either the Federal Home
Loan Bank Board or Madison Guaranty later on in '84
and '85 prior to your getting this request for the
preferred stock?

A I can't remember specifically. I think there's some letters in there and we asked them --

they weren't meeting the net worth requirements, which I think at the time was 3 percent, and I think there's some letters in there advising that, and we asked them what actions they were going to take. And as I recall, the preferred stock issued and the broker/dealer was what they proposed to improve their net worth.

Q And how did you determine that they continued not to meet the net worth requirements, through your review of the quarterly annual reports; is that correct?

A Right, and examination reports.

Q But the examination report you already had. That was done as of January '84?

A Yes, but they did one in '86.

Q In '86, but I'm talking leading up to the time when they requested the preferred stock approval, what kinds of reports were you reviewing to determine --

A It would be the quarterly reports and the audit reports.

Q And as a result of reviewing those reports

77 1 and finding that they were not meeting the net worth 2 requirements, your department sent them letters 3 asking them what they were going to do to meet it? 4 And that they weren't along with the 5 Federal Home Loan Bank. There are several letters in 6 the files. I'm sure you have copies of them that 7 state they weren't meeting the requirements. 8 MR. GICALE: Off the record. 9 (Discussion off the record.) 10 BY MR. GICALE: 11 Do you recall sending some letters asking 12 them what they're going to do about their net worth? 13 Yes. A These would have gone to Madison Guaranty? 14 0 15 Α Uh-huh. 16 0 And do you recall discussions with anybody 17 from the Federal Home Loan Bank Board during this 18 time period with respect to this net worth problem? 19 No. That was generally done between the 20 commissioners. We talked to the people. 21 Do you know in '84 or '85 who the primary 22 contact at the Federal Home Loan Bank Board was with 78 1 respect to Madison Guaranty? 2 I can't remember the name. They would be 3 on the letters, and Skip Lohmiller was one. There 4 were like three or four contact people, but they were 5 the people that's on the memos that we have in the 6 letters from the Federal Home Loan Bank Board. 7 We do not have all of your memos. 8 What about John Mitchell? 9 Α Yes 10 0 Was he one of the contacts? 11 A 12 0 Do you recall James Smith? 13 Α Yes. 14 0 Was he another one of the contacts you 15 referred to? 16 Uh-huh. A 17 0 What about a Lou Roy? 18 I don't remember his name. I think the

policy of the Federal Home Loan Bank is they would

supervisory agents over, and those people changed

some, the case load like Madison, whoever specific

assign people a specific savings and loan to be

19 20

21

people assigned to it and that's who you'd deal with.

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Q In either the fall and winter of '84 or through the end of '84 and beginning of '85, do you remember specifically who you dealt with prior to this preferred stock request?

A I don't remember. It's too long. It would be the people that's on the memos and letters in our files that you have copies of.

Q Were these people from the Federal Home Loan Bank Board, were they also requesting that the bank -- suggesting to the bank that they attempt to issue the preferred stock or get preferred stock approval from your agency?

A I don't recall that they did that specifically, but there's letters in general that asked them what they do, and they weren't complying with the net capital requirements of this agreement in general.

Q How involved did you get in reviewing the investments that Madison Guaranty had in real estate? For example, Campobello, how much detail did you --

A They had to file an application for our approval to do that, and I reviewed the application, made recommendations.

Q When did they first file that application with your agency?

A I don't recall the specific date, but you have a copy of the application.

Q Do you recall whether the first request for Campobello was in '84?

A Lee is the one that reapproved it so it had to be in '84. Lee was the one that I dealt with and approved that application.

MR. COLE: Lee Thalheimer?

THE WITNESS: Yes.

BY MR. GICALE:

Q So when you finally received this request from Mr. Fitzhugh or this inquiry from Fitzhugh, this was just a continuation of conversations you had had with the people at Madison Guaranty with respect to their net worth position, or you viewed it as that; correct?

A I don't know if it's conversations. It

would be letters and correspondence from myself and the Federal Home Loan Bank regarding what they're going to do to improve their net worth requirements.

Q Was the April 3rd conversation that you had with Fitzhugh the first time that they raised the issue of preferred stock with you?

A Yes.

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Q Do you recall anyone ever recommending to Beverly Bassett that she seek an opinion from the attorney general with respect to whether or not the preferred stock request should be approved?

A No.

Q Now, you started to testify earlier about the broker/dealer request that I showed to you. Now, did this come up -- strike that.

did this come up -- strike that.
 I asked you whether or not -- the dates are
 May 14, 1985 and the same date -- the date is May 14,
 1985, which is the same date as the letter to Hillary
 Clinton with respect to approval of the preferred

20 stock matter.

Do you recall this broker/dealer issue being discussed in the months leading up to May 14,

82

1 1985?

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18 19

2 I can't remember specific dates, but I 3 think when they filed the preferred stock issue, I 4 had a meeting with Massey and maybe two meetings with 5 Massey and Latham regarding debt application, and it come up -- we asked them, I think, in the question 6 7 who they were going to sell it who and how they were 8 going to sell the preferred stock and I think a part 9 of that, they said they planned to form a broker/dealer, which was a system in selling that and

broker/dealer, which was a system in selling that and also, they intended to operate their broker/dealer

12 for a profit center.

That meeting would have occurred sometime between the April 30 letter and then filing this.

Q Filing this, the May 14th request?

A Right.

Q So they were viewing this broker/dealer as a means to generate income selling other kinds of securities in addition to their preferred stock?

A And to help them sell their preferred stock, yes.

22 Q Did you have any concerns about them doing

		83
1	that?	
2	A Yes.	
3	Q What were your concerns?	
4	A On whether they were meeting their net	
5	worth requirements and because, as I recall, one of	
6	the requirements was the Federal Home Loan Bank and	
7	maybe pursuant to the agreement that they were later	
8	into is they had to meet the benchmark before they	
9	could do any more indirect investments, I mean,	
10	wholly owned service corporation, which this one	
11	would be.	
12	Q The broker/dealer would be another service	
13	corporation?	
14	A Yes.	
15	MR. COLE: And when you say they had to	
16	meet the benchmark, what do you mean by that?	
17	THE WITNESS: The 3 percent	
18	BY MR. GICALE:	
19	Q The 3 percent net worth?	
20	A Right.	
21	MR. COLE: Before they could engage in	
22	those activities	
		84
1	THE WITNESS: Yes.	84
1 2	THE WITNESS: Yes. MR. COLE: through issuance of the	84
1 2 3	THE WITNESS: Yes. MR. COLE: through issuance of the preferred stock or otherwise they would have to	84
1 2 3 4	THE WITNESS: Yes. MR. COLE: through issuance of the preferred stock or otherwise they would have to increase their capital?	84
1 2 3 4 5	THE WITNESS: Yes. MR. COLE: through issuance of the preferred stock or otherwise they would have to increase their capital? THE WITNESS: Yes, and we conditioned the	84
1 2 3 4 5 6	THE WITNESS: Yes. MR. COLE: through issuance of the preferred stock or otherwise they would have to increase their capital? THE WITNESS: Yes, and we conditioned the approval of this broker/dealer on that fact.	84
1 2 3 4 5 6 7	THE WITNESS: Yes. MR. COLE: through issuance of the preferred stock or otherwise they would have to increase their capital? THE WITNESS: Yes, and we conditioned the approval of this broker/dealer on that fact. BY MR. GICALE:	84
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1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20	THE WITNESS: Yes. MR. COLE: through issuance of the preferred stock or otherwise they would have to increase their capital? THE WITNESS: Yes, and we conditioned the approval of this broker/dealer on that fact. BY MR. GICALE: Q I'm going to show you what's marked for identification as Exhibit 03583. Actually there is a prefix to that, RLF 2. It's a memo dated May 22, 1985 from Charles Handley to Beverly Bassett and Nancy Jones regarding application by Madison Guaranty Savings & Loan to form a second tier wholly owned service corporation which would engage in securities broker/dealer business. That's your memo to Beverly Bassett on that date; is that correct? A Yes. Q Referring to item 6 in this memo, you had requested or you suggested to Beverly Bassett that	
1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19	THE WITNESS: Yes. MR. COLE: through issuance of the preferred stock or otherwise they would have to increase their capital? THE WITNESS: Yes, and we conditioned the approval of this broker/dealer on that fact. BY MR. GICALE: Q I'm going to show you what's marked for identification as Exhibit 03583. Actually there is a prefix to that, RLF 2. It's a memo dated May 22, 1985 from Charles Handley to Beverly Bassett and Nancy Jones regarding application by Madison Guaranty Savings & Loan to form a second tier wholly owned service corporation which would engage in securities broker/dealer business. That's your memo to Beverly Bassett on that date; is that correct? A Yes. Q Referring to item 6 in this memo, you had	

85 1 paragraph 7 that you needed "detailed financial 2 statements to determine if the total aggregate 3 outstanding investment capital stock obligations or 4 other securities of service corporations and 5 subsidiaries in joint ventures thereof does or would 6 not exceed the 6 percent of the association assets 7 and limitation which is set forth in rule VC": 8 correct? 9 Α Uh-huh 10 And you further informed her in this memo 11 in paragraph 8 "based on the net worth and 12 liabilities as reflected in the association's 13 December 31, 1984 audited financial statement, it 14 appears that the association does not meet the 15 minimum net worth requirements of section 563.13 of 16 the Federal Home Loan Bank's regulations." 17 Right. 18 O And that "the association should file a 19 copy of their March 31, 1985 quarterly minimum net 20 worth calculation and a plan to meet the minimum net 21 worth requirements if the calculation reflects a 22 shortage." Correct? 86 1 Α Yes. 2 On some date subsequent, it appears that 3 you received a copy of a supervisory bulletin from 4 the Federal Home Loan Bank of Dallas. I'm going to 5 show you a copy of this. It's marked for 6 identification as 500083 through 500097, although I 7 note the last page is marked 500054. So apparently 8 it's taken out of context, but this is the way we 9 received it. 10 Do you recall receiving a copy of this 11 supervisory bulletin dated June 10, 1985? 12 Yes, we retain copies of all the Federal 13 Home Loan banks supervisory bulletins. 14 There's initials in the upper left-hand 15 side, BB. Is that for Beverly Bassett? 16 Α Right. 17 0 NS is for? 18 A NJ, Nancy Jones. 19 0 SW ---20 Α Sarah Weaver. 21 And then back to you, Charles Handley? 0

22

Α

Me.

		87
1	Q So you received a copy of this and made	
2	sure that they received copies of this as well; is	
3	that correct?	
4	A Uh-huh well, actually that means they	
5	reviewed this copy and gave it back to me.	
6	MR. COLE: You circulated it.	
7	THE WITNESS: Uh-huh.	
8	BY MR. GICALE:	
9	Q Attached to it, at least the records we	
10	received, is this Exhibit D, "Quarterly minimum net	
11	worth calculations of Madison Guaranty Savings & Loan	
12	Association." Did you circulate it with this	
13	exhibit, do you recall?	
14	A I mean, I don't recall. I'm sure I didn't.	
15	MR. COLE: Was this produced from his	
16	department's files in this order, or do we know?	
17	THE WITNESS: It's Bates numbered	
18	THE WITNESS: This is not ours because the	
19	memo is written to Massey, so it didn't come from our	
20	files.	
21	BY MR. GICALE:	
	0 37	
22	Q You never received it?	
		88
1	A No, we never received it.	88
1 2	A No, we never received it. Q You're referencing the front page of a	88
1 2 3	A No, we never received it. Q You're referencing the front page of a memo. This is page 500088. It says to Rick Massey	88
1 2 3 4	A No, we never received it. Q You're referencing the front page of a memo. This is page 500088. It says to Rick Massey from Sarah Hawkins.	88
1 2 3 4 5	A No, we never received it. Q You're referencing the front page of a memo. This is page 500088. It says to Rick Massey from Sarah Hawkins. A Right. That's not ours.	88
1 2 3 4 5 6	A No, we never received it. Q You're referencing the front page of a memo. This is page 500088. It says to Rick Massey from Sarah Hawkins. A Right. That's not ours. Q This is something you ever saw?	88
1 2 3 4 5 6 7	A No, we never received it. Q You're referencing the front page of a memo. This is page 500088. It says to Rick Massey from Sarah Hawkins. A Right. That's not ours. Q This is something you ever saw? A No. It wouldn't have our stamp on it so	88
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1 2 3 4 5 6 7 8 9	A No, we never received it. Q You're referencing the front page of a memo. This is page 500088. It says to Rick Massey from Sarah Hawkins. A Right. That's not ours. Q This is something you ever saw? A No. It wouldn't have our stamp on it so you didn't get this from me. Q What were the regulatory consequences of failure to meet net worth? And I'm going to refer	88
1 2 3 4 5 6 7 8 9 10	A No, we never received it. Q You're referencing the front page of a memo. This is page 500088. It says to Rick Massey from Sarah Hawkins. A Right. That's not ours. Q This is something you ever saw? A No. It wouldn't have our stamp on it so you didn't get this from me. Q What were the regulatory consequences of failure to meet net worth? And I'm going to refer you specifically to the direct investment section	88
1 2 3 4 5 6 7 8 9 10 11	A No, we never received it. Q You're referencing the front page of a memo. This is page 500088. It says to Rick Massey from Sarah Hawkins. A Right. That's not ours. Q This is something you ever saw? A No. It wouldn't have our stamp on it so you didn't get this from me. Q What were the regulatory consequences of failure to meet net worth? And I'm going to refer you specifically to the direct investment section 563.9.	88
1 2 3 4 5 6 7 8 9 10 11 12 13	A No, we never received it. Q You're referencing the front page of a memo. This is page 500088. It says to Rick Massey from Sarah Hawkins. A Right. That's not ours. Q This is something you ever saw? A No. It wouldn't have our stamp on it so you didn't get this from me. Q What were the regulatory consequences of failure to meet net worth? And I'm going to refer you specifically to the direct investment section 563.9. A Well, I think the memo sets forth what they	88
1 2 3 4 5 6 7 8 9 10 11 12 13 14	A No, we never received it. Q You're referencing the front page of a memo. This is page 500088. It says to Rick Massey from Sarah Hawkins. A Right. That's not ours. Q This is something you ever saw? A No. It wouldn't have our stamp on it so you didn't get this from me. Q What were the regulatory consequences of failure to meet net worth? And I'm going to refer you specifically to the direct investment section 563.9. A Well, I think the memo sets forth what they were. They can take authorities away. That they	88
1 2 3 4 5 6 7 8 9 10 11 11 12 13 14 15	A No, we never received it. Q You're referencing the front page of a memo. This is page 500088. It says to Rick Massey from Sarah Hawkins. A Right. That's not ours. Q This is something you ever saw? A No. It wouldn't have our stamp on it so you didn't get this from me. Q What were the regulatory consequences of failure to meet net worth? And I'm going to refer you specifically to the direct investment section 563.9. A Well, I think the memo sets forth what they were. They can take authorities away. That they could do.	88
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1 2 3 4 5 6 7 8 9 10 11 11 12 13 14 15 16 17	A No, we never received it. Q You're referencing the front page of a memo. This is page 500088. It says to Rick Massey from Sarah Hawkins. A Right. That's not ours. Q This is something you ever saw? A No. It wouldn't have our stamp on it so you didn't get this from me. Q What were the regulatory consequences of failure to meet net worth? And I'm going to refer you specifically to the direct investment section 563.9. A Well, I think the memo sets forth what they were. They can take authorities away. That they could do. Q Well, specifically, that section 563.9-8, and I'm referring to page 85 under "direct	88
1 2 3 4 5 6 7 8 9 10 11 11 12 13 14 15 16 17 18	A No, we never received it. Q You're referencing the front page of a memo. This is page 500088. It says to Rick Massey from Sarah Hawkins. A Right. That's not ours. Q This is something you ever saw? A No. It wouldn't have our stamp on it so you didn't get this from me. Q What were the regulatory consequences of failure to meet net worth? And I'm going to refer you specifically to the direct investment section 563.9. A Well, I think the memo sets forth what they were. They can take authorities away. That they could do. Q Well, specifically, that section 563.9-8, and I'm referring to page 85 under "direct investment" says "an insured institution can't make	88
1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19	A No, we never received it. Q You're referencing the front page of a memo. This is page 500088. It says to Rick Massey from Sarah Hawkins. A Right. That's not ours. Q This is something you ever saw? A No. It wouldn't have our stamp on it so you didn't get this from me. Q What were the regulatory consequences of failure to meet net worth? And I'm going to refer you specifically to the direct investment section 563.9. A Well, I think the memo sets forth what they were. They can take authorities away. That they could do. Q Well, specifically, that section 563.9-8, and I'm referring to page 85 under "direct investment" says "an insured institution can't make direct investments in service corporations operating	88
1 2 3 4 5 6 7 8 9 10 11 11 12 13 14 15 16 17 18	A No, we never received it. Q You're referencing the front page of a memo. This is page 500088. It says to Rick Massey from Sarah Hawkins. A Right. That's not ours. Q This is something you ever saw? A No. It wouldn't have our stamp on it so you didn't get this from me. Q What were the regulatory consequences of failure to meet net worth? And I'm going to refer you specifically to the direct investment section 563.9. A Well, I think the memo sets forth what they were. They can take authorities away. That they could do. Q Well, specifically, that section 563.9-8, and I'm referring to page 85 under "direct investment" says "an insured institution can't make	88

22 agent"; correct?

89 1 A Right. 2 MR. COLE: And these are the federal 3 regulations you're asking him to interpret? THE WITNESS: Right. 4 5 BY MR. GICALE: 6 O I understand. But was this the rule you 7 were referring to with respect to the broker/dealer 8 corporation? 9 Yes, because it would be a direct Α 10 investment. 11 0 So you felt that they could not engage in 12 this --13 A Until they met the net worth --14 0 The 3 percent, without obtaining prior written approval of the principal supervisory agent? 15 16 I mean, that we shouldn't approve it 17 because they wouldn't meet the federal net worth 18 requirements. We couldn't approve it. They wouldn't 19 approve it. Once you meet the requirements, they 20 don't have to get approval, is my understanding. If they don't meet the requirements, they 21 22 cannot make direct investments? 90 1 Unless they get written approval from the 2 principal supervisor. 3 Q But that didn't -- that applied not just to 4 the broker/dealer issue, investment, but also to 5 other investments that they would have made at that 6 time or subsequent; is that correct? 7 A Right, in --8 MR. COLE: Well, again, let's mind our 9 legal technicalities here. I think "direct investment" is a very specific defined term in the 10 federal regulations, and I'm happy to have him answer 11 12 the question, but I don't want to gloss over what is a significant legal concept here. 13 BY MR. GICALE: 14 15 I understand, but this rule didn't just 16 apply to broker/dealers. It applied to any prior --17 any direct investments in service corporations; 18 correct?

19

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22

A

Uh-huh. Right.

Madison Guaranty; correct?

Now, for instance, there were other --

Madison Financial was a service corporation of

91 1 Α Correct. 2 0 And Madison Financial had invested in a 3 number of real estate ventures; is that correct? 4 Uh-huh. Α 5 0 Campobello was one of them? 6 A Uh-huh. 7 Castle Grande became one of them? 0 8 Α Uh-huh. 9 Maple Creek was one of them? 0 10 Α Uh-huh. 11 0 Did you view this at the time as 12 prohibiting Madison Guaranty from making any direct 13 investments in those -- in Madison Financial with respect to those developments at this point in time? 14 15 MR. COLE: Mr. Gicale, I just want to make 16 sure you're not including a fact in your question that may or may not be accurate. Are you telling 17 Mr. Handley that the investment in those real estate 18 entities that you named was made by Madison Guaranty, 19 20 the parent institution, as opposed to Madison 21 Financial, the subsidiary? Because I think it makes 22 a difference. 92 . MR. GICALE: There's a question. 1 2 MR. COLE: Again, I don't want to interfere 3 with your question, but I want to frame it carefully 4 and you had a factual premise in your question that 5 the investment was made directly by the parent 6 institution. 7 THE WITNESS: Some of those are second tier 8 service corporations that the first tier made 9 investments in. 10 BY MR. GICALE: 11 The first two being Madison Financial in 12 second tier operations. But there were -- but 13 Madison Guaranty -- well, how did you view this rule 14 as applying to -- between Madison Guaranty and the 15 first tier corporation and the second tier 16 corporation? 17 Right. There's some question when this regulation came in. I don't think this came in until 18 the latter part of '94, and I think a lot --19

A Yeah, '84. So I don't think this would be allowed to make the investments in Madison because

'84, you mean?

20

Q

1 they were made prior to that. 2 What about investments or increases in 3 investments made subsequent in '85? 4 Yeah. I think we tried to address that with 5 the broker/dealer 6 O Broker/dealer was just one example of 7 another direct investment; correct? MR. COLE: My problem with your question is 8 it's almost a hypothetical question unless you want 9 10 to show him documents or elicit through his testimony specific instances of direct investments by the 11 12 institution after this date. I'm not sure that you're asking him a fair question. 13 14 MR. GICALE: What I want to know is whether 15 or not they were concerned about direct investments in the service corporations --16 17 THE WITNESS: The answer is yes. 18 BY MR. GICALE: 19 O -- other than the broker/dealer back in 20 June of 1985 21 A Yes 22 And what steps were you taking to monitor 94 1 those investments? 2 We told them we wouldn't approve the 3 broker/dealer until they met the net worth 4 requirements. 5 What about investments in other -- other 6 investments in service corporations? What were you 7 doing to address those investments if they occurred? 8 I don't know that they've made any after 9 March of 1985 or when this came into effect. I don't know of any specific ones that they've done. I think 10 11 they made those investments prior to that. 12 O What about Castle Grande? 13 Α I think that was prior to that. 14 That did not occur in October of 1985? O 15 The association didn't do it. I mean, I 16 think that may have been a second tier investment. O Did you view second tier investments as 17 18 coming within this rule in 1985? 19 No. Because it wouldn't be a direct 20 investment by the association.

21 Q Depending on how the financing was worked 22 out; correct?

95 Right. But I have no --1 2 MR. COLE: There's some important concepts 3 here. And if I could ask Mr. Handley one question. 4 If there had been a prior investment in the 5 service corporation by the institution itself, for 6 example, to capitalize the service corporation, then is it your testimony that subsequent allocations of 7 that capital or uses of that capital would not be 8 9 subject to this provision? Because I think that may be where the confusion is here as to later use of the 10 proceeds of an initial investment in a service 11 12 corporation, if that's helpful. MR. GICALE: There's not confusion and 13 14 that's not really the point of my question. And I 15 iust --THE WITNESS: Maybe I don't understand the 16 17 question. MR. COLE: That's what I'm saying. I don't 18 19 understand it. I don't think he understands it. 20 BY MR. GICALE: 21 Q This prohibition applied to direct 22 investments other than the broker/dealer arrangement; 96 1 correct? 2 Right, but I think they made most of those 3 prior to that reg. And my question of you is what steps did 4 5 you take to monitor whether or not they were 6 making -- Madison Guaranty was making any direct 7 investments in service corporations? 8 The only one we were aware of was the 9 broker/dealer action. We told them we weren't going 10 to approve that --11 What steps did you take to become aware of 12 it? Did you check their books on a weekly or monthly basis to see whether money was going into the service 13 14 corporation? 15 No. What we did was monitor the things 16 I've already told you about, the quarterly financial statements, the independent audits and examination 17 18 reports.

But how would you know, for instance, if --

how could you stop them from investing in a service

corporation if you waited until you received a quarterly report, and they invested at the beginning

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1 of the quarter?

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2 It's like you can't stop people from 3 stealing refrigerators if they're left on the back 4 porch.

> Q No, but you -- go ahead.

6 But what you do is monitor those financial 7 statements, and that's what we did, but we don't 8 have -- we didn't ask them to -- we didn't go out and 9 look at their books every month or didn't ask them

10 how much money they invested in that.

11 The line rule sets forth what they have to 12. do when they want to make a direct investment, and in 13 certain cases, they have to make an application with 14 us, and we reviewed -- like the broker/dealer 15

application. They filed it. We asked them, do you have the net worth in place, and they said no, we

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weren't going to approve it until you do. 17

But if they don't come to you with the 18 19 application, and they go ahead and increase their investment, direct investment in a service 20

corporation, how do you prevent that? What means --21 22

MR. COLE: That's such an unfair question,

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1 if they don't comply with their reporting 2

requirements. What means do you have to know what

3 actions they took? 4

THE WITNESS: The only question is if they 5 don't report it correctly on the things we're 6 monitoring, they don't file that application, we 7 couldn't catch them.

BY MR GICALE:

9 The only thing you were requiring them to 10 file with you at the time were quarterly reports and 11 annual audited statements --

And the examination reports.

But there was an examination in '84, early '84 and there wasn't another one until early '86;

15 correct?

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Α Right.

So would the quarterly reports tell you whether or not they had increased their investment in service corporations?

A I'm trying to think how they report it. 20 Not necessarily, they wouldn't. I think they just 21

22 report it as investments in other subsidiaries. We wouldn't know where they invested it.

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Q Then how did you monitor compliance with this section?

A Relying on the examination reports and the independent audit reports and complying with the rules in the law. You have to take that they will -- you have to take that they're honest people until you find that they don't. That's just the way it works.

Q But the quarterly statements would not necessarily tell you whether the investment would increase?

A I don't think so, no.

Q And would the audited yearly statement tell you whether or not --

A Yes, I think it would. I think it's the CPA's audit position if they were in violation of the rules and regulations, they'd have to tell you that in the examination report certainly.

Q But under that scenario, you wouldn't know until a year had expired whether or not they were in violation; correct?

A It could be up to a year, depending on when

the examination report was done and an audit report was done and when they made their investment.

MR. COLE: And if they didn't make their application as they were required to do by law.

THE WITNESS: I don't know what your ion --

question --

BY MR. GICALE:

Q What was the consequence of them not making the application to you?

A Which application?

Q If they didn't make an application to you for approval, what was the consequence? There was no consequence to it?

MR. COLE: The consequence is he wouldn't know about it.

THE WITNESS: I think what we could have done if we found out about it, we could take steps to bring them into compliance like we're doing now, make them get rid of it --

BY MR. GICALE:

Q At that point, could you have monitored their books on a monthly basis, for instance?

- Sure, we could have done it, but would we want to? The Federal Home Loan Bank put an agreement in which is basically agreeing to it and monitoring things. We could have done that, yes.
- 5 Could you have asked at that point based on 6 the history in '84 and '85 to have the Federal Home 7 Loan Bank Board seek to remove the directors and 8 officers?

A We could ask that, but that's not a requirement and the Federal Home Loan Bank was doing the same supervision we were doing and that was their requirement. And later I think they took that step.

13 O Was that at your request or your own 14 initiative?

15 A It was on their doing but we discussed the 16 matter with them and concurred with them.

17 So did you take any steps other than 18 reviewing the annual audited financial statement to 19 determine whether or not Madison Guaranty was in 20 compliance with this regulation in 1985?

21 Α Which regulation?

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563.9, the one dealing with direct 0

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1 investments in service corporations. 2

The only thing we would do is in reviewing the audit reports and examination reports filed by the Federal Home Loan Bank Board which would disclose federal noncompliance.

6 Q But again, examination reports were every 7 18 months?

Yes, but you asked me what we would do and that's what we would do.

10 Q Do you know whether or not in the balance 11 of 1985 there were any increases in -- or direct 12 investments that occurred in the service 13 corporation? Did you later learn that there were 14 direct investments in the service corporation that

15 occurred without approval of the principal 16 supervisory agent?

17

Α I think the '86 examination report reflected that.

Do you recall what those investments were?

20 No. I'd have to look at the examination Α 21 report.

22 0 I'm going to show you what's marked for

identification as document 500153 and 154. This is a letter to Beverly Bassett and Nancy Jones dated June 17, 1985 from Rick Massey, and I specifically refer your attention to paragraph 7 and 8 dealing with two exhibits, C and D, D being copies of quarterly minimum net worth calculations.

Were these the calculations that were attached to the earlier document that I showed to you? Why don't you take a moment to review the letter

(Witness reviewed document.)

12 A Okay.

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Q After reviewing that letter, a copy of that letter and the attachments on the earlier document, are those the attachments that were referred to in the letter?

A I really don't know. I don't know why it would be attached to the memo, but it is a March 31, '85 minimum net worth calculation, I assume, of Madison.

Q Do you recall whether or not you came into possession of those in the securities department

commission -- securities commission?

A I remember they did file them.

Q With your commission?

A Yes.

Q And you reviewed them; correct?

A Yes.

MR. COLE: Does "with your permission" refer to taking the document from Mr. Handley rather than filing the net worth calculations with the department?

You reached across and said "with your permission." Were you talking about taking the document?

MR. GICALE: No, with your commission.

MR. COLE: Oh, I'm sorry, I thought I heard you to say with your permission.

MR. COLE: I'm sure the record is very clear there.

BY MR. GICALE:

Q I'm going to show you what's marked for identification as a memorandum from Charles Handley to Beverly Bassett dated June 18th, and it's marked

1 500179 through 180. This is again, dealing with this 2 broker/dealer matter.

3 Directing your attention to paragraph 3 on the second page, that paragraph summarizes the 4 minimum net worth requirements of Madison Guaranty 5 and in it vou state as follows: "Exhibit D reflects 6 that the association did not meet the minimum net 7 worth requirement of section 563.13 in the Federal 8 9 Home Loan Bank Board's regulations by \$410,436 as of March 3, 1985, \$281,102 as of April 30, 1985, and 10 \$186,471 as of May 31, 1985." 11

12 Was that based on your review of Exhibit D that we showed you earlier; is that correct? 13

A Yes, that's what it says.

And in that memo, you explained to Beverly 15 Bassett and Nancy Jones how "one of the regulatory 16 consequences of bulletin S-8560 dealing with this 17 issue on net worth is that an insured institution 18

19 cannot make direct investments in service

20 corporations operating subsidiary equity securities

21 or other real estate without prior written approval

of the principal supervisory agent." 22

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And that's the supervisory bulletin that we 1 2 earlier discussed: correct? 3

A Right.

So you were alerting them to that, that 4

5 issue?

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Α Uh-huh.

O Did you have any discussions with Beverly Bassett and Nancy Jones about the fact that the net worth was not meeting the board's requirements and what the consequences of that were?

11 I don't recall because I pretty well stated 12 it in this memo once I got a copy of it.

Q Did you talk to Beverly Bassett and Nancy Jones about taking some steps to ensure that Madison Guaranty did not make any direct investments in service corporations, other than the broker/dealer issue that you were working on?

A No, the only one I recall is that we not approve the broker/dealer until they met the net worth requirements.

21 On the last page on paragraph 5, it says 22 the association has already purchased and owns 100

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Uh-huh.

Uh-huh.

Correct?

Uh-huh.

107 percent of the stock of Thorne & Company, the proposed broker/dealer service corporation. The association should advise if this is correct. If so, the price paid." Now, you were concerned there that this association had indeed invested in a service corporation: correct? Uh-huh. Α 0 Without approval? Α Right. What did you subsequently do about that? 0 12 It's in the memo. In fact, they answered 13 that question. They did buy it and how much they 14 paid for it. 15 Did they get approval to do that? 0 No, but I recall they only paid like \$5000 17 for it. 18 Did you talk to the Federal Home Loan Bank 19 Board about that? 20 Don't recall that, because we never 21 approved the application to go into the broker/dealer 22 business. 108 Now, you had a subsequent exchange of various correspondence between you and the Rose Law Firm and Madison Guaranty on general accounting principles? Yes, we were trying to resolve how much money they needed to meet the 3 percent requirement, as I recall. Now, in August of 1985 -- let me show you 0 9 what's marked for identification as a letter dated 10 August 30, 1985 to Beverly Bassett from Richard 11 Massey. He indicated to you that in the first 12 paragraph "based on the June 30, 1985 net worth 13 calculation, Massey's net worth was \$842,393 below 14 that required by the Federal Home Loan Bank Board"; 15 correct?

21 And then indicated that -- they indicated 22 that the remedy for this was to obtain or to offer

You were concerned about that?

109 1 preferred stock and offer limited partnership units; 2 correct? 3 Α Uh-huh. 4 I show you what's marked for identification 5 as Bates number RLF 103174. These are notes of yours dated September 12, 1985. Could you take a moment to 6 7 review those. 8 (Witness reviewed document.) 9 Α Uh-huh. Addressing your attention -- directing your 10 attention to the second paragraph of that memo dated 11 September 12, 1985, you state that "Madison's 12 deficiency in net worth as required by the Federal 13 Home Loan Bank Board has increased greatly since 14 March 31, 1985 as of 6/30/85 the deficiency was 15 \$842,393." 16 17 Now, you made some recommendations in there referenced on the second page. In paragraph 2, you 18 indicate that approval be conditioned on the 19 following. "An opinion of counsel that the preferred 20 21 stock will meet all the conditions" -- I can't read your writing there -- "conditions" --22 110 It's cut off. It's in the attached Federal 1 2 Home Loan Bank's proposed rules so the preferred stock to be included as a part of the regulatory net 3 4 worth. 5 Now, at that point you were looking for an 0 6 opinion from whose counsel? 7 Α Theirs. 8 0 Bank's counsel? 9 A Uh-huh. And that was Rose Law Firm at the time: 10 0 11 correct? 12 Uh-huh. A 13 Now, apparently there was a meeting in August of 1985 on this issue where you subsequently 14 agreed or Beverly Bassett agreed to approve the 15 broker/dealer upon Madison's meeting the Federal Home 16 Loan Bank's minimum net worth requirement by 17 18 December 31, 1985. And I'm going to show you what's marked for identification as Exhibit RLF 103178. 19 It's a letter dated October 17, 1985 to Richard 20

Massey from Beverly Bassett referencing that

meeting. Do you recall that?

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Q Were you present at the meeting?

A I had maybe three or four meetings with

Massey and Latham, and I can't remember the dates but I think one meeting Beverly was at. I can't remember specifically, but I think so.

Q Now, why is it that you gave them until December 31, 1985 to meet this net worth requirement?

A Because we didn't want to have an open end -- we wanted to meet the net worth as soon as possible and we didn't want to have an open end time period. We wanted to give them a time certain to do it so they would. They would suffer the consequence if they didn't.

Q What was the consequence you threatened them with?

A Not being able to do it.

Q Now, you -- your agency had been aware of their net worth problems since July of 1984. Were you continuing to have discussion with the Federal Home Loan Bank Board about their net worth position

22 in October of 1985, if you can recall?

A Their letters would be in the file. I'm
sure that they -- there was discussion about it. I
can't remember. But any correspondence between the
Federal Home Loan Bank Board and us and them would be
in the file.

Q Do you recall without looking at those letters?

A I didn't talk specifically to anybody, but I think Beverly talked to -- I know Beverly had some conversations with the people at the Federal Home Loan Bank pretty regularly, but I didn't.

Q About this particular bank, Madison Guaranty, and this issue?

A I'm sure, but S&Ls in general. They would talk to her more than me.

Q During this time period, August, September, October 1985, do you know who in particular she may have been talking to?

A No. Whoever the letters reflect as being the supervisory agent and assistant.

Q I'm going to show you what's marked for identification as number 500246 through 249. These

113 1 are copies, I believe, of handwritten notes of yours dated December 23, 1985 from Charles to Beverly and 2 3 file. Are these copies of your notes? 4 Yes 5 0 And these detail a conversation you had 6 with Mr. Latham on that date? Uh-huh 7 8 Do you want to take a moment to review 0 9 them? 10 A Okay. MR. COLE: Can we go off the record. 11 12 MR. GICALE: Sure. 13 (Discussion off the record.) 14 BY MR. GICALE: Now, Mr. Handley, you've had an opportunity 15 to review these notes dated December 23, 1985; 16 17 correct? 18 Α Yes. 19 Q Now, you had a conversation with Mr. Latham about whether or not they would do any broker 20 21 business until they had met the net worth 22 requirements; correct? 114 1 Α Uh-huh 2 Q And what was his understanding at that 3 point? 4 Α That his application had been completed. 5 He hadn't been doing any business because his application hadn't been completed. 6 7 Q He indicated that wasn't his understanding 8 of the agreement but he agreed to abide by it in any 9 event? 10 Α Yes. 11 On the third page of this document, it says that "they planned" -- this is the middle paragraph 12 13 or the second paragraph -- "they planned on having a subordinated debentures issue instead of a preferred 14 15 stock issue because the interest paid of the debentures would be expensed." Is that what that 16 17 says? 18 Α Right.

And dividends on the preferred stock could

So was he indicating to you at that point

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Q not?

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Right.

in time that they were going to change what they weregoing to do?

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A He told me they were thinking of filing another application to do subordinated debentures instead of preferred stock because S&L could write off the expense of the dividend. A dividend wouldn't be an expense. It would be a reduction of net worth.

Q Do you recall having any other conversations with Beverly Bassett or Nancy Jones or Madison Guaranty or the Rose Law Firm with respect to this preferred stock matter and the broker/dealer matter through the end of December 1985?

A No. As I recall, December 31 came and gone, and they didn't comply.

Q Was there any requirement at the securities commission in 1984, 1985 and 1986 to report to the governor's office with respect to the status of the various savings and loans, state chartered savings and loans?

A None that I know of.

Q Were there any reports made to the governor's office in '84, '85 and '86 as to the

1 condition of savings and loans in Arkansas?

A None that I know of.

Q Did you or Beverly Bassett ever consult with the governor or the governor's staff on the condition of --

A I can't answer for Beverly, but I didn't.

Q Did you ever prepare any reports at the request of Beverly or her predecessor for use in advising the governor or the governor's staff on the condition of savings and loans in Arkansas in '84, '85 and '86?

A None that I know of.

Q Do you know in '84, '85 and '86 whether any information with respect to Madison Guaranty was conveyed to the governor or the governor's office about the financial condition of Madison Guaranty by you or someone at your commission?

A In subsequent depositions and stuff, I think you've seen a memo to Sam Bratton about it, but not while I was there. In testimony and things like that, I've been told, or by a reporter, but not until recently.

- Q And you've become aware of some memo to Sam Bratton from whom?
- 3 I can't remember whether it was in some 4 documents shown to me by the FBI or the grand jury or 5 some reporter. I've dealt with probably 100 6 reporters on this issue. I mean, I just can't

7 remember, and I can't even remember what it was.

- Do you recall the date of the memo?
- 9 Α No.

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- 10 0 In '84, '85 and '86 you were the person 11 responsible for reviewing the quarterly and the annual audited financial statements as well as the 12 13 examination reports of Madison.
- 14 Uh-huh
- 15 0 Did you on a regular basis advise Beverly 16 Bassett after you reviewed those reports as to the condition of Madison Guaranty? 17
- 18 Α Uh-huh.
- 19 0 Did you do that orally or in some written report form? 20
- 21 A You have copies of my memos and sometimes 22 orally.

118 Well, I've just shown you copies of memos

with respect to the broker/dealer issue and the preferred stock issue. Are there some other memos that exist --

A No, you have all the memos, but I sent some of those memos, speak about their own net worth and what reports they file.

8 But those memos were dealing with a 9 specific issue, the broker/dealer issue and preferred 10 stock. As you reviewed a quarterly statement of 11 Madison Guaranty or the annual audited statement of 12 Madison Guaranty, did you prepare some kind of

- 13 summary for Beverly Bassett so she knew what the 14 condition was?
- 15 You would have copies of them.
 - Q Do you have copies of them?
- 17 Α At the office. I mean --
- You have copies of memos that you prepared? 18 0 19
 - We're talking about the same memos --A
- 20 there's some other memos that you haven't shown me,
- 21 but there's some here where we talk about the net
- 22 worth.

1 MR. GICALE: Let's go off the record. 2 (Discussion off the record.) 3

BY MR. GICALE:

Earlier, you testified that the memos that I showed you had references to your review of the net worth position of Madison Guaranty; correct?

Uh-huh.

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And those reflected your work after 0 reviewing those quarterly and annual reports; correct?

Α Uh-huh.

Are there any other memos that you prepared 0 that you're aware of with respect to the status of Madison Guaranty in terms of summarizing what the net worth position or the investment of the service corporation was?

I know there are some others that you haven't shown me, but we've made them available to

O How frequently would you submit memos like that? Would they be done on a quarterly basis, for instance?

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- No, not necessarily. Drastic changes and things like that. You have to remember, our office policy is that Beverly would initially get all the mail, all the exam reports and quarterly reports and look at them first and then give them to me. She would actually review everything we got first and give them to me.
 - Would you only review it if she asked you to review it?

No, I reviewed it -- I reviewed it and if anything drastic -- I would write a memo or talk to her about it. I do know there's other memos. Like in '82 when I first brought the thing, they became insolvent by \$5000 and there's a string of memos regarding them, they'd kick in \$100,000. But I know that's not the time period we're talking about.

- 0 But there were a string of memos when that occurred?
 - A Right.
- Q Do you recall any other memos in '85 that I haven't shown you?
 - I've seen so many memos -- I'm trying to be

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1
    honest.
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2 I know, and if there's any that stand out

3 in your mind in '85 or '6 --

The only thing I know is you have copies of 4 5 all the memos I've written about this.

Don't assume that that's correct, that that's the case.

But do you recall any others independent of

9 these?

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10 Α No.

11 0 I'm going to show you what's been marked

12 for identification as -- with the number 84 again but

this is a statement and affidavit dated April 7, 13

1984. I believe this is represented to be your 14

affidavit. It is a three-page affidavit sworn to 15

16 before Patrick Durkin, special agent of FDIC/OIG. Is

this a copy of the affidavit that you gave to 17

Mr. Durkin on that day? 18

19 Α Yes.

20 Is this an accurate reflection of your

21 statement to him on that date?

22 Yes.

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1 I'm going to refer you to the second page of that affidavit, the second paragraph starting with 2 "Bassett." And going down to the sentence which 3

reads "we all agree that this was allowed under this 4 provision." When was it that you changed your mind

5 from allowing this under the wild card provision to 6

allowing this under the business corporation's 7

8 provision? Was that when you met with Beverly

9 Bassett?

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10 A Well, I got Nancy's memos we discussed previously. I got Nancy's memo first which stated 11 that opinion, and then I went and talked to Beverly 12 and Beverly told me she agreed with it and had read 13 Nancy's memo and I agreed with them. We went over 14

that at the beginning. 15 16

MR. COLE: More than once, I believe.

BY MR. GICALE:

Did you ever talk to anyone else at the 18

Rose Law Firm other than Mr. Massey? 19 20

No.

21 Did Hillary Clinton ever attend any

22 meetings where you were present? 1 Α No. 2 Or did you ever speak to her on the phone 3 concerning this or any other matter? 4

No.

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Did Beverly Bassett ever tell you that she talked to Hillary Clinton about this matter?

Yes, recently, she did. She told me they phoned her one time to see if we got the application and she said yes and it had been turned over to me and to talk to me about it.

When did you talk to Beverly Bassett about this?

She told me that probably seven, eight months ago.

How was it that you came to talk to her about this matter seven or eight months ago?

She was in the office, and we talked.

Was the purpose to talk about this or was it for some other reason?

A She didn't come up there specifically to talk to me. She was up there visiting in town.

How did this issue come up?

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We started talking about all the publicity and how many reporters and how much time had been taken by our departments and things like that, just in the ordinary course of business.

Was this the first time you talked about it 0 since 1985?

A No. I think we've had -- she phoned me up when the New York reporter -- we had a couple conversations about Jeff Gerth or Garth's articles, when that first came out.

When he first called her, she called you up?

It was after the articles had came out. I don't know when that was.

Do you recall any other conversations with her about this, other than the time of the Gerth articles or seven or eight months ago when she was in her office?

We talked a couple of times after the Gerth articles and when she would come up to the office.

Were you aware of the fact that Beverly Bassett had represented Madison prior to becoming a

- 1 securities commissioner?
- 2 A I wasn't aware of that until after -- until
- 3 the time of the Jeff Gerth articles came out. I
- 4 went -- there is a letter in our file on the
- 5 Campobello from her filing some documents from the
- 6 Tucker law firm, but I didn't remember that letter
- 7 until the article came out.
- 8 O Showing you what's marked for
- 9 identification as Exhibit Number 200797, a letter
- 10 dated August 30, 1984 to Supervisor Thalheimer from
- 11 Beverly Bassett on Mitchell, Williams, Selig, Jackson
- 12 & Tucker stationery?
- 13 A This is the one.
- 14 Q Is that the letter you're referring to?
- 15 A Yes.
- 16 Q You don't recall receiving this in 1984?
- 17 A I didn't recall it. Back then, I didn't
- 18 know who Beverly Bassett was.
- 19 Q But this was dealing with the Campobello
- 20 issue; correct?
- 21 A Right.
- 22 Q Have you since had occasion to review what

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- 1 she was requesting on behalf of Campobello and
- 2 Madison Guaranty?3 A Yes, I did.
 - A Yes, I did. It was just a file. She filed
- 4 some documents that were to be requested. That was
- 5 kind of like a cover letter to the documents.
- 6 Q During the time she was securities
- 7 commissioner, you were not made aware in '84 and '85
- 8 when this preferred stock issue came up that she had
- 9 represented Madison Guaranty in this issue; correct?
 - A No.
- 11 Q Based on her representation of Madison in
- 12 '84, do you believe she should have continued to --
- 13 she should have reviewed the matters in '85 dealing
- 14 with Madison?
- 15 A If it would have been me, I wouldn't have 16 done it, just for the appearance. That wasn't my
- 17 decision.

- 18 Q Beverly Bassett has stated that her
- 19 predecessor "Lee Thalheimer approved a risky
- 20 speculative real estate development at the time the
- 21 savings and loan was in need of capital to support
- 22 such a project." Do you know what project she was

referring to?

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Not really but I would guess Campobello because that was the one approved.

And that was the project she worked on when she worked at the Mitchell law firm; correct?

That's what I read in the paper. I don't know what she was doing.

MR. COLE: You only know that she filed documents with your office; correct?

THE WITNESS: That's right.

BY MR. GICALE:

O When Madison was seeking approval for preferred stock, did you believe that a private market existed for stock at that time? Was this a realistic --

I believe it was very hard to sell the stock issue because of the bad conditions of S&Ls in general and the bad financial condition of Madison specifically. Even the preferred stock, where you get preferences and get a stated rate, it would have been a hard sell. I hoped it would because that's what we wanted to do, improve the capital, but I

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1 really didn't believe it would be a done deal. 2

You didn't believe it was realistic?

I don't know if I'd use "realistic." I just didn't think it would -- I didn't know who they were going to sell it to. I certainly thought they'd have to sell it to a sophisticated investor in a private placement because I didn't think it could be offered to the public. They might find -- they might pay a rate that would attract someone like that, but I didn't think it would be a done deal.

Q I'll represent to you that Beverly Bassett has also indicated in the spring of 1986 that you had numerous conversations with the Federal Home Loan Bank of Dallas about Madison Guaranty and the status of it. Do you recall having conversations with the Federal Home Loan Bank?

Not numerous, not numerous. Maybe three or four or five times.

Do you know who those conversations were with at the Federal Home Loan Bank Board in 1986?

It would be the people who's on the letters at that time.

129 1 O Do you know whether the Federal Home Loan 2 Bank Board in 1986 sought your office's advice and 3 approval as to the proper regulatory course of action 4 to take in the matter? 5 A In '86 after the exam, they entered the 6 cease-and-desist order which we were having a meeting 7 and they made available and we concurred with what 8 they were going to do. Q Did they ever seek your advice and approval 9 in taking this course of action? 10 Yes. I would think so. We met before we 11 12 met with the board of directors and they showed us 13 the documents and said this is what we want to do and 14 we said yes. 15 Did they need your approval to go ahead on 0 16 it? 17 Α No. 18 Did they ask your advice on it? 0 Yes. They asked if we agreed with what 19 20 they were going to do, so I guess that's asking our advice and we concurred. 21 22 Do vou remember Walter Faulk? 130 1 Yes. 2 O What was his role at the Federal Home Loan 3 Bank with respect to Madison? 4 The specific title correctly was chief supervisory agent for the Dallas Federal Home Loan 5 Bank at the time we met with Madison board of 6 7 directors in '86. 8 Q When was the first time you knew that 9 Madison Guaranty was insolvent? When we got the Peat Marwick's audit report 10 for -- God, I can't remember -- December 31, '85 11 12 which they generated sometime in '87. 13 Q Who were the accountants prior to Peat 14 Marwick for Madison Guaranty? 15 Frost & Company in Little Rock. Did the Frost & Company firm submit some 16

20 broker/dealer issue? 21 Α Yes.

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18 19

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And were those papers submitted to you by

papers to you with respect to net worth and the financial status of the corporation while you were

trying to make a determination about the

131 1 Rick Massey from the Rose Law Firm? 2 I mean, I can't remember. It's part of the 3 file. 4 When you met with the board of directors in 5 1986, the purpose then was to remove Mr. McDougal; 6 correct? 7 Α Uh-huh, and get a cease-and-desist order in 8 place. 9 A receiver wasn't appointed until sometime 10 subsequent to that; right? 11 Correct, but pursuant to the 12 cease-and-desist order, I think the Federal Home Loan 13 Bank had to approve the management. Is there any reason why that action 14 couldn't have been taken in 1985? 15 Well, I think they were allowed on the '86 16 17 examination report to do that and it wasn't there in '85. 18 19 Were there other problems with the bank 20 prior to the '86 report --21 No, the '84 reflected problems with the bank, but I think the '86 examination report showed 22 132 1 they greatly increased and that's the reason they 2 took the action in '86. 3 Well, you saw some great increases in 4 September of 1985 in terms of the net worth problem; 5 correct? They got worse. They got larger and they 6 didn't comply with the -- they didn't meet the 7 requirements to get the 3 percent net worth in that 8 9 time frame. 10 As of December 1985, they didn't meet the net worth requirement. They did not, therefore, get 11 12 approval on the broker/dealer issue and didn't issue 13 preferred stock. Why at that point in time didn't 14 you recommend that McDougal be removed? Well. I think we were waiting for a new 15 recent exam to be conducted to have recent financial 16 17 information by a third party to do. 18 You didn't --19 And I think that was the basis of -- I

desist and removing the --

think that was the basis of putting the cease and

O You did not believe you had sufficient

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information in December of 1985 to take that step or recommend that to the Federal Home Loan Bank Board?

We couldn't because it was their requirement, they were doing it, and to take those steps, you have to have current proof and documentation.

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You had quarterly and annual reports which reflected the increases -- the net worth position --

Yes, but their examination report reflected more than just the net worth. I think it reflected noncompliance with the supervisory agreement and growth and assets and other things. I think there's a lot more in that '86 report that you can hang your hat on doing that, not just the financial information.

Did you have discussions, you or somebody from your agency have discussions with the Federal Home Loan Bank Board about your agency's ability under state law to seize Madison Guaranty without notice, remove management and immediately take control of the institution?

A I didn't. I think maybe Beverly did.

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1 0 Did she tell you about these conversations? 2 Well, I remember she coming in and saying 3 they were discussing issuing the cease-and-desist 4 order, and I think that come up on the -- that they 5 were going to do that and use their authority. 6 That's what I recall.

Was there a discussion about whether to proceed under state law or did they have the Federal Home Loan Bank Board do this?

Well, as I recall, Beverly was -- that's what they wanted to do in the cease-and-desist order. We don't have the authority to remove the board in ours, so they'd have to use theirs and ask for our concurrence.

When did you first become concerned about the financial viability of Campobello and Castle Grande?

18 A When they filed the application, the latter 19 part of '84.

> Q The application for what?

21 A To do it. 22

Q On Campobello, to invest in Campobello?

135 1 Α Ves 2 What about Castle Grande? 0 3 They never did file an application on 4 that. I think that was done through a second tier 5 service corporation. 6 O Do you know in your dealings with Rick 7 Massey and the Rose Law Firm whether or not they had access to the '84 examination and the supervisory 8 9 agreement? 10 Α No. 11 Do you recall any discussions with them 12 about the '84 examination and the supervisory agreement related to preferred stock or related to 13 the broker/dealer matter? 14 15 MR. COLE: "Them" would be Rick Massey? 16 MR. GICALE: Yes. 17 THE WITNESS: I can't recall any specifics. They were their clients. I think if they 18 asked for them, the clients would give them to them. 19 20 It never crossed my mind that that would be an issue. BY MR. GICALE: 21 22 You don't recall discussing in any event 136 1 the supervisory agreement or the '84 examination as a 2 part of this process of approving preferred stock or 3 broker/dealer or increasing net worth? 4 No. I mean, I just assumed they knew about 5 it. It was their client. We discussed the financial 6 condition that's set forth in there. 7 Would it have made sense for them to have 8 known that, the financial condition of their client 9 when they approached you on the preferred stock issue? 10 I think so. I think we discussed it. We 11 12 made them aware it was a concern of ours, the 13 financial condition of their loan and net worth. 14 That's the reason we talked about it. 15 You talked about it --0 16 Just in general but I don't remember saying, hey, have you seen the supervisory agreement 17 18 or the '84 exam? I just assumed that they had access 19 to it and was aware of it. 20 In your discussions with them, were they

aware of the restrictions on investments in service corporations, the 6 percent restriction? Was

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     Mr. Massey aware of that?
 2
             I don't think he probably did, but I
 3
     brought it up.
 4
            You talked to him about that?
 5
         Α
            Yeah.
        Q Reminded him about that and expressed your
 6
 7
    concern about that; correct?
 8
        Α
             Right.
 9
        0
             Showing you again what's marked for
10
    identification as 84 a memo dated July 17, 1985.
11
    It's from you to Beverly Bassett and Nancy Jones. In
    that memo, in the fourth paragraph -- I'm sorry, the
12
13
    third paragraph, it says "I am still very concerned
14
    about the adjustments made to the associated net
15
    worth by the association's CPA in the December 31,
16
    1984 audited financial statements." Was it around
17
    this time that Mr. Massey submitted statements with
18
    Frost & Company with respect to the financial
19
    condition of Madison Guaranty?
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        Α
             Uh-huh. I believe in response to this
21
    memo.
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            MR. FROMEWICK: What's the Bates number on
                                                           138
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    that?
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MR. GICALE: Well, off the record.

(Discussion off the record.)

BY MR. GICALE:

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Q You indicated this the CPA wrote you a letter --

As I recall, Massey wrote me a letter, but the CPA -- they turned it over to the CPA at the Frost firm, who wrote me a letter and filed some financial statements with regard to this.

Which you used in making your determination as to whether or not they were complying with the net worth requirement; correct?

Yeah. The gist of it was they were contending that the adjustments that I thought should be made reflected on the audit report wasn't made to the financial statements they had been filing with us because they were using regulatory accounting filing the statements with us and the adjustments, they made on the audit reports were GAAP accounting, so we're

21 talking about two different systems.

I'm going to show you what's marked a

139 document. It's a letter dated August 16, 1984 to Lee 1 Thalheimer from Madison Guaranty signed by James 2 3 McDougal. 4 Now, this references a meeting -- this 5 letter references a meeting apparently the previous 6 Friday where there was some discussion about Madison Guaranty's investment in loans to its service 7 8 corporation exceeding the 6 percent limitation. 9 Α Yes 10 O And some further discussion about Campobello. 11 12 Α Uh-huh. 13 You recall discussions about the Campobello investment in 1984 when Mr. Thalheimer was there? 14 15 Α Yes. 16 0 Then I'm going to show you a letter dated 17 January 21, 1985 to the board of directors of Madison Guaranty Savings & Loan Association from you --18 actually from Beverly Bassett by you, Charles 19 Handley, financial examiner supervisor. 20 It was really by me. That was our policy. 21 22 It was a letter from me. 140 Attached to it is an order in which the 1 Arkansas Savings & Loan Association's supervisor 2 approved Madison Guaranty corporation's wholly owned 3 service corporation and investment in Campobello 4 5 development company, and the order that's attached is dated September 13, 1984. It is signed by Lee 6 Thalheimer. 7 8 Α Uh-huh. 9 Do you know why that was sent out in 10 January of 1985? 11 Α Yes. 12 Why is that? 0 13 At this time Lee was leaving as securities commissioner and Beverly came in. I don't know the 14 exhibit dates, but Lee actually left probably the 15 last of September, 1st of October. And when Beverly 16 come in going through his office, Beverly found this 17 18 order in Lee's office and gave it to me. So I did 19 this letter specifically to advise the Federal Home

Loan Bank Board that we had approved the Campobello.

The cc is to them, and that was really the reason I

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21 22

sent it out.

Q So although Thalheimer had approved it in September, no notice was sent out until January of 1985?

3 1985? 4 A

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A I didn't know about it until a few days before the date of the letter.

Q Did you have any discussion with Beverly Bassett about the approval of this investment?

A No. It was already approved by Lee. This is a matter of notifying the Federal Home Loan Bank that it had been approved.

Q Subsequent to December 31, 1984, did your department approve any of the following? Did it approve any direct investments and service corporations of Madison Guaranty subsequent to

15 December 31, 1984?

A I can't remember the dates. The only ones -- the way it worked is that under Rule 5 of the S&L Act, there's a laundry list of things that service corporations can automatically invest in without our approval.

without our approval.
 Q Without your approval or with the approval?

A Without. It was copied to the Federal Home

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1 Loan Bank Board. The only ones they had to file

2 specific approval with us would be gold Mine Springs

3 because it was going to be a joint venture

4 partnership development and Campobello because it was

5 going to be a joint venture, so that was the only

6 applications technically under the statute and rules
7 that they actually had to get approval from us. The

that they actually had to get approval from us. The others were preapproved under the laundry list.

Q Did you approve any -- but my question of you is did you approve any subsequent to December 31, 1984?

A I don't know what the dates were. We approved two, and you have copies of the orders. Gold Mine Springs and Campobello.

15 Q Do you recall approving any other direct 16 investments in the service corporations of Madison 17 Guaranty?

18 A No.

MR. GICALE: Off the record.

(Discussion off the record.)

21 BY MR. GICALE:

Q I'm going to show you what's marked for

identification as Exhibit 99000318 through 371. And 1 2 this is a copy of the examination report Federal Home Loan Bank board March 4, 1986 with respect to Madison 3 4 Guaranty. Did you review this report?

Yes.

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6 0 And I'm going to direct your attention to 7 Exhibit 324, the second paragraph which starts with 8 "the projects." 9

Α Okay.

It says "the projects represent direct investment by Madison Guaranty itself or by its service corporation, Madison Financial. Management entered five new projects in 1985 and also substantially increased investments in previously existing projects. None of these investments were approved by the principal supervisory agent as required by insurance regulation 563.9-8," and I can't read that last --

I think that's direct investment that we talked about earlier because they were under the net worth.

0 -- "direct investments increased from 3.7

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1 million when this regulation became effective in 2 March 1985 to 10.6 million as of April 30, 1986.

3 Direct investments have continued to increase to

4 12.3 million as of June 30, 1986."

Are you aware of the five projects that they entered into in 1985 that were not approved by the principal supervisory agent?

I don't know specifically.

When did you first -- when did you first become aware of the fact that they had entered into these five new projects in 1985 and had substantially increased their investments in other existing projects?

I would guess when we got this examination report.

Did the yearly financial report at the end of 1985 give you any indication as to whether or not they had entered into five new projects in 1985 and had increased their investments in previously existing projects?

I mean, I don't recall specifically. If I did -- if I had known about it, I would bring it up.

145 1 I would guess they didn't. 2 Your guess is that annual report did not 3 tell you whether or not they had done this; is that 4 correct? 5 A Right. 6 So the only way you learned of this is 0 7 through this examination report? 8 Yes Α 9 Did you take any steps to stop Madison 10 Guaranty from entering into these five new projects 11 in 1985? 12 Α No. because we didn't know about it. 13 I'm going to show you another document 14 dated April 2, 1986 and numbered 914 through 921 --15 I'm sorry. Let me give the whole number, 9900914 16 through 9900921. This is a report dated April 2, 17 1986, Federal Home Loan Bank Board report to Rolf 18 Coburn through E. Berlinger from James Clark, 19 subject, interim report, Madison Guaranty. 20 Do you recall seeing this report? 21 I don't think we got a copy of this. It's 22 not cc'd to us. 146 1 And so you don't recall it? 2 I'm pretty sure we didn't because it's on 3 Federal Home Loan Bank Board in Indianapolis. We 4 wouldn't have gotten anything from them. 5 Were you aware of the fact in 1985, the 6 first year after the supervisory agreement was 7 signed, liabilities that Madison Guaranty grew 120 8 percent from 48 million to 105.8 million? 9 I knew they grew quite a bit because of 10 broker deposits. 11 MR. COLE: "Liabilities" in this instance 12 is another way of saying deposits; correct? 13 THE WITNESS: Yes. 14 MR. COLE: Off the record. (Discussion off the record.) 15 16 BY MR. GICALE: 17 In February of 1985, do you recall that

John Latham and Dr. Jerry Kendall were proposed as members of the Arkansas Savings and Loan Board?

A Yeah, they were actually members of the Arkansas Savings and Loan Board.

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Q Do you know who proposed them? Did the

1 governor propose them, Governor Clinton propose them? 2 Yes, that's who appoints members to the S&L 3 Board. 4 Were you involved in evaluating at all, or O 5 were you in a position to evaluate the qualification 6 of these candidates to serve on the S&L Board? 7 Δ No. 8 Do you know whether Latham and Kendall were 9 qualified as candidates to sit on the S&L Board? 10 I think they met the statutory requirements 11 of being from the district, one of them being on the board of the S&L. I know that. I don't know what 12 13 you mean by "qualifications." You mean background? 14 Background, experience. Did either of them 15 have experience in savings and loans, sufficient 16 experience that would make them good members to serve 17 on the board? 18 The statute doesn't set forth, other than being from a certain Congressional district and being 19 20 associated with a savings and loan. 21 They just had to be associated with the 22 savings and loan? 148 1 Α Uh-huh 2 No requirement as to years of experience or 3 the kind of job they held? 4 No. A 5 0 Now, the only one who had experience who 6 was associated with the savings and loan was 7 Mr. Latham; correct? 8 Α Right. 9 How was it -- how long had he been 10 associated with Madison Guaranty at that point in 11 1985? I don't have any idea. I just know he was 12 Α 13 when he was appointed. What about Dr. Jerry Kendall? What was his 14 15 association with the savings and loan? 16 There's some people -- I think he served 17 the -- just -- one member of the board can be a 18 public member. I think he started in that position. 19 So they don't have to be associated with a 20 savings and loan? 21 Not all of them, no. Α

Did you know that Kendall was a borrower of

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510 149 1 Madison Guaranty? 2 A No. 3 0 If he was, would this have been a conflict 4 of interest, and could he have served on the board? 5 Not under the statute. It wouldn't be 6 under the conflicts of interest. 7 O You could still be on the board and still 8 borrow from Madison? 9 It doesn't prohibit. 10 MR. COLE: You need to say yes or no for 11 the reporter. 12 BY MR. GICALE: 13 Did the commission have any responsibility for evaluating any conflicts of interest for members 14 15 of the board? 16 They didn't -- I would think if someone 17 felt it was, it could be brought up and discussed. 18 It never was. They have to recuse themselves if there is a conflict of interest on the matter. The 19 20 statute provides that. 21 Was the board involved in approving this preferred stock, the preferred stock issue involved? 22 150 1 Α No, not at all. 2 0 It was just the commissioner's 3 responsibility? 4 Really the board is a body of appeal from 5 the supervisor decisions on most everything. 6 So for instance, if you had denied this 7 request for preferred stock, then Madison Guaranty 8 could have gone to the board and appealed your 9 decision? 10 Α Yes. 11 What was the commission's relationship with 12 the Arkansas Banking Commission? 13 Α None 14 McDougal had an interest, an ownership 0 interest in Madison Guaranty and previous to that or 15

articles.
 Q Did you know that at the time in 1985 when
 they -- in '84 and '85 when they came to you on these

almost actually at a point in time I believe he also

had an interest in Madison Bank. Were you aware of

I knew that by reading the newspaper

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that?

Α

1 various issues?

A I did know he had an interest in the bank up there, but I just -- when they first bought the savings and loan, a gentleman that was part owner of the savings and loan named Smith, who's a professor, talked to me about -- as I said, we wrote memos. They got low on capital, and at that time he told me that him and McDougal owned some of the stock of that

9 bank.

Q Of Madison?

A In '82.

Q Of Madison Bank and Trust?

A Yeah, a small town in north Arkansas.

Q Did you ever become aware of the fact there was a cease-and-desist order imposed by the state banking commission and the FDIC on that bank?

A No.

Q · Did you ever become aware of the fact that in April of 1985 at about the time that this preferred stock request came in that John Latham had purchased a major stock ownership in Madison Bank and Trust from Steve Smith?

A No, I didn't know that. That's completely new news to me.

Q Did you or anybody from your department ever discuss the condition of Madison Guaranty with Marlin Jackson who was the state banking commissioner?

A I didn't, and not to my knowledge, we didn't.

Q Whether it was Madison Guaranty or other banks, was there a regular exchange of information between the state banking commission and the securities commission with respect to the status of financial institutions in Arkansas?

A No.

Was there any prohibition against that?

A Well, in general, I don't think we could disclose private information regarding filings against us. That would be in violation of the law, but I think we could -- you could assess public matters like reports that were public and things like that. We could do that.

Q For instance, if Marlin Jackson as banking

commissioner, or whoever was banking commissioner at 1 2

the time that the cease-and-desist order was entered 3

against Madison Bank, and McDougal had an ownership

interest in the bank, if they knew that, they were 4

5 aware of that cease-and-desist order and problems

6 with McDougal and his interest and his management of 7

that bank and he came along and bought an interest in 8

a savings and loan, could he make you or your

9 commission aware of that? 10

I think it depends on whether that cease-and-desist order was a public or nonpublic document. I don't know.

Do you know whether or not the Rose Law Firm ever had access to the '86 examination report,

15 March '86 examination report that I showed you

16 earlier?

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17 A We didn't discuss it specifically, but they 18 were their clients. I think they could have access 19 to it.

20 Do you know in your discussions with Massey 21 or anybody from that firm whether or not they had

22 access to it or whether they had the information

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1 contained in it?

2 A We never discussed that.

3 0 Would it be improper for them to have such 4 information?

5 If their client chose to give them to him, 6 I wouldn't think it would. We couldn't give it to 7 them.

MR. GICALE: Off the record for a second.

9 (Discussion off the record.) 10

BY MR. GICALE:

11 Based on your earlier testimony, you said 12 that the Federal Home Loan Bank Board did examinations on institutions every 18 months 13 14 approximately. Is that the schedule?

I think that was the requirement. Α

Q The requirement every 18 months?

Α At least every 18 months.

Unless the institution was a problem; 0

19 correct?

20 A Unless they deemed it a problem.

Do you know why the Federal Home Loan Bank

22 Board waited almost two years to review Madison

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1	Guaranty after the '84 supervisory meeting?
2	A No. You'd have to ask them that.
3	Q And I believe as you earlier stated,
4	through conversations with you, Mr. Massey was aware
5	of the fact that Madison Guaranty was limited to 6
6	percent on investments in its service corporations;
7	correct?
8	A Yes, my memos to him says that, that you
9	have there. We discussed the issue in those memos to
	him.
10	
11	Q In the summer of 1985; correct?
12	A Uh-huh.
13	MR. GICALE: I have nothing further at this
14	point.
15	(Discussion off the record.)
16	EXAMINATION
17	BY MR. COLE:
18	Q Mr. Handley, I'm Lance Cole. I'm one of
19	the Democratic counsel to the Committee as I
20	indicated earlier. Mr. Gicale has been very gracious
21	today. It's his practice in letting me ask some
22	clarifying questions during his portion of the
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1	examination, but I do have some additional areas I'd like to cover with you. Going back to the issue of the proposal on
1 2	examination, but I do have some additional areas I'd like to cover with you.
1 2 3	examination, but I do have some additional areas I'd like to cover with you. Going back to the issue of the proposal on
1 2 3 4	examination, but I do have some additional areas I'd like to cover with you. Going back to the issue of the proposal on behalf of Madison Guaranty to issue preferred stock,
1 2 3 4 5	examination, but I do have some additional areas I'd like to cover with you. Going back to the issue of the proposal on behalf of Madison Guaranty to issue preferred stock, was the first knowledge you had of that proposal when
1 2 3 4 5 6	examination, but I do have some additional areas I'd like to cover with you. Going back to the issue of the proposal on behalf of Madison Guaranty to issue preferred stock, was the first knowledge you had of that proposal when you received the telephone call or were informed of the telephone call from Mr. Fitzhugh that is
1 2 3 4 5 6 7	examination, but I do have some additional areas I'd like to cover with you. Going back to the issue of the proposal on behalf of Madison Guaranty to issue preferred stock, was the first knowledge you had of that proposal when you received the telephone call or were informed of
1 2 3 4 5 6 7 8	examination, but I do have some additional areas I'd like to cover with you. Going back to the issue of the proposal on behalf of Madison Guaranty to issue preferred stock, was the first knowledge you had of that proposal when you received the telephone call or were informed of the telephone call from Mr. Fitzhugh that is referenced in your April 3, 1985 memorandum? A Yes, that's correct.
1 2 3 4 5 6 7 8 9	examination, but I do have some additional areas I'd like to cover with you. Going back to the issue of the proposal on behalf of Madison Guaranty to issue preferred stock, was the first knowledge you had of that proposal when you received the telephone call or were informed of the telephone call from Mr. Fitzhugh that is referenced in your April 3, 1985 memorandum? A Yes, that's correct. Q And at that time, were you aware that the
1 2 3 4 5 6 7 8 9 10	examination, but I do have some additional areas I'd like to cover with you. Going back to the issue of the proposal on behalf of Madison Guaranty to issue preferred stock, was the first knowledge you had of that proposal when you received the telephone call or were informed of the telephone call from Mr. Fitzhugh that is referenced in your April 3, 1985 memorandum? A Yes, that's correct. Q And at that time, were you aware that the Rose Law Firm was providing legal counsel to Madison
1 2 3 4 5 6 7 8 9 10 11 12	examination, but I do have some additional areas I'd like to cover with you. Going back to the issue of the proposal on behalf of Madison Guaranty to issue preferred stock, was the first knowledge you had of that proposal when you received the telephone call or were informed of the telephone call from Mr. Fitzhugh that is referenced in your April 3, 1985 memorandum? A Yes, that's correct. Q And at that time, were you aware that the Rose Law Firm was providing legal counsel to Madison Guaranty Savings & Loan with respect to in
1 2 3 4 5 6 7 8 9 10	examination, but I do have some additional areas I'd like to cover with you. Going back to the issue of the proposal on behalf of Madison Guaranty to issue preferred stock, was the first knowledge you had of that proposal when you received the telephone call or were informed of the telephone call from Mr. Fitzhugh that is referenced in your April 3, 1985 memorandum? A Yes, that's correct. Q And at that time, were you aware that the Rose Law Firm was providing legal counsel to Madison
1 2 3 4 5 6 7 8 9 10 11 12 13 14	examination, but I do have some additional areas I'd like to cover with you. Going back to the issue of the proposal on behalf of Madison Guaranty to issue preferred stock, was the first knowledge you had of that proposal when you received the telephone call or were informed of the telephone call from Mr. Fitzhugh that is referenced in your April 3, 1985 memorandum? A Yes, that's correct. Q And at that time, were you aware that the Rose Law Firm was providing legal counsel to Madison Guaranty Savings & Loan with respect to in relation to this matter? A No.
1 2 3 4 5 6 7 8 9 10 11 12 13 14 15	examination, but I do have some additional areas I'd like to cover with you. Going back to the issue of the proposal on behalf of Madison Guaranty to issue preferred stock, was the first knowledge you had of that proposal when you received the telephone call or were informed of the telephone call from Mr. Fitzhugh that is referenced in your April 3, 1985 memorandum? A Yes, that's correct. Q And at that time, were you aware that the Rose Law Firm was providing legal counsel to Madison Guaranty Savings & Loan with respect to in relation to this matter? A No. Q And you advised Ms. Bassett the same day
1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16	examination, but I do have some additional areas I'd like to cover with you. Going back to the issue of the proposal on behalf of Madison Guaranty to issue preferred stock, was the first knowledge you had of that proposal when you received the telephone call or were informed of the telephone call from Mr. Fitzhugh that is referenced in your April 3, 1985 memorandum? A Yes, that's correct. Q And at that time, were you aware that the Rose Law Firm was providing legal counsel to Madison Guaranty Savings & Loan with respect to in relation to this matter? A No. Q And you advised Ms. Bassett the same day that you received, or your staff received this
1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17	examination, but I do have some additional areas I'd like to cover with you. Going back to the issue of the proposal on behalf of Madison Guaranty to issue preferred stock, was the first knowledge you had of that proposal when you received the telephone call or were informed of the telephone call from Mr. Fitzhugh that is referenced in your April 3, 1985 memorandum? A Yes, that's correct. Q And at that time, were you aware that the Rose Law Firm was providing legal counsel to Madison Guaranty Savings & Loan with respect to in relation to this matter? A No. Q And you advised Ms. Bassett the same day that you received, or your staff received this inquiry; is that correct?
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1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19	examination, but I do have some additional areas I'd like to cover with you. Going back to the issue of the proposal on behalf of Madison Guaranty to issue preferred stock, was the first knowledge you had of that proposal when you received the telephone call or were informed of the telephone call from Mr. Fitzhugh that is referenced in your April 3, 1985 memorandum? A Yes, that's correct. Q And at that time, were you aware that the Rose Law Firm was providing legal counsel to Madison Guaranty Savings & Loan with respect to in relation to this matter? A No. Q And you advised Ms. Bassett the same day that you received, or your staff received this inquiry; is that correct? A Yes. Q And what was your purpose in sending this

our S&Ls was taking and that it was probably a new application that we hadn't addressed before, and we'd have to look at it closely.

Q And as I read your memorandum, you were identifying for Ms. Bassett a legal issue that existed with regard to whether the Arkansas statutes provided for issuance of preferred stock; is that correct?

A Yes.

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Q Was it your view at the time that issuance of preferred stock by this institution would be beneficial if doing so was permitted under state law?

A Yes. I would want them to if they could.

Q And why is that?

A It would increase the net worth and financial condition of the savings and loan, and that's one of our purposes in being there.

Q And you were aware at that time that this institution needed to increase its capital and net worth?

A Yes, I knew it wasn't meeting the benchmark requirements set by the Federal Home Loan Bank and

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the net worth was decreasing monthly.

And were you also aware at the

Q And were you also aware at that time that federal regulatory authorities, including the Federal Home Loan Bank Board in Dallas, were permitting savings and loan institutions to issue preferred stock?

A Yes.

8 Q And was the issue that you were concerned 9 with in this memorandum which provision of Arkansas 10 law, if any, would permit issuance of preferred 11 stock?

12 A Yes.

Q Did you have any discussions with
Ms. Bassett between the time of the receipt of this
telephone inquiry, which according to your memorandum
occurred on April 3, 1985, and the subsequent letter
from the Rose Law Firm?

A April 30?

Q It's dated, I believe, April 30, 1985.

A No. No conversations or correspondence until we got the April 30 letter.

Q The April 30, 1985 letter from the Rose Law

- 1 Firm to you makes reference to the Arkansas Business
- 2 Corporation Act, which we discussed earlier in your
- 3 deposition. And as I understand the letter, it
- 4 asserts that that provision of Arkansas law provided
- 5 legal authority to issue for state chartered savings
- and loan institutions to issue preferred stock; is 6 7
 - that correct?

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- Α Yes.
- And did you understand that letter to be submitted in responses to the information that you had provided Mr. Fitzhugh during your telephone discussion on April 3, 1985?
- 13 Yes
 - 0 And I'm not going to cover again the testimony you provided regarding the discussions with
- 16 Ms. Bassett and Ms. Jones on the issue of what
- 17 provision of Arkansas law authorized the issuance of
- the preferred stock, but I did want to draw your 18
- 19 attention to the affidavit that you provided in April
- 20 1994 to the Inspector General of the Resolution Trust
- 21 Corporation. And that's a document marked number
- 0000084 dated April 7, 1984. 22

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And if I could direct your attention to the second page of that document, there's a paragraph that says "Bassett, Jones and I met to discuss our interpretation of the preferred stock issue. We also

- 5 discussed the conclusion reached by Massey concerning
- 6 an institution being allowed to issue preferred stock
- 7 turned provisions of the Arkansas Business
- Corporation Code. We all agreed that this was 8
- 9 allowed turned this provision." 10

Is that your recollection today of the final outcome of the consideration of the issue that you identified in your April 3, 1985 memorandum to Ms. Bassett?

- Α Yes.
- And do you recall whether Mr. Brady of your department played a role in the consideration of that issue?
- The only thing I know is that Beverly asked him to review it, and I don't know what he said about it. It was probably between him and Beverly Bassett.
- And so you don't recall having any discussions with Mr. Brady about this matter?

1 I did not. The reason is that the 2 securities commissioner, who's the top person, and my supervisor agreed with it, and I assumed that 3 Mr. Brady and Ms. Bassett had their conversation and 4 Ms. Bassett was satisfied with her opinion. 5

6 And the final authority as to this 7 decision, leaving aside the possibility of an appeal to the Arkansas Savings and Loan Board, the final 8 9 authority was with Ms. Bassett under the statutes; is

10 that correct?

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Α That's correct.

12 So Ms. Bassett had the authority to take into account the views of her staff and then come to 13 her own conclusion as to what course of action would 14 15 be appropriate under the laws that you were 16 administering?

Α That's correct, and I think that's what she done.

19 Do you know whether or not Ms. Bassett drafted the May 14, 1985 letter to Hillary Rodham 20 21 Clinton at the Rose Law Firm in which she indicated

22 that she agreed that the Arkansas Business

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1 Corporation Act provided authority to issue preferred 2 capital stock?

3 I don't know exactly. I only got a copy of 4 the letter after it was sent out. So I can't answer 5 you. But I would guess it is. It looks like a 6 personalized letter, and it looks like Beverly's 7 style.

8 In the lower left corner of the document 9 there are some initials that say BB/PS. Do you know 10 who PS is?

11 That was Beverly's secretary at the time, Phyllis Shelby. So by those notations there, Beverly 12 13 did type it herself and had her -- drafted it herself 14 and had her secretary type it. 15

So at least based upon the style of the letter and your familiarity with Ms. Bassett's correspondence and the initials of the typist shown on the document, it would appear to you that this

letter was actually drafted by Ms. Bassett? 19

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21 What was Mr. Brady's area of expertise or 22 area of responsibility at the securities department?

163 1 He was a staff attorney. He did any legal 2 work that was assigned to him, the various industries and acts that we regulate. I wouldn't say it's any 3 4 specific area. 5 Did he work in the broker/dealer regulation Q 6 area? 7 Α Yes. 8 Was that his primary area of 0 9 responsibility? I couldn't say that. I would guess that he 10 11 did most of his work in that area because that's the 12 large volume of our department's business. 13 Did I generally work on state issues 14 relating to state chartered savings and loan 15 institutions? 16 I would say no. I mean, he was just a 17 staff attorney, and she chose to give this to him. 18 Your department, as I understand it, had 19 regulatory responsibility for a number of different 20 kinds of businesses in addition to state chartered 21 savings and loan institutions; is that correct? 22 That's correct. 164 1 What were the other financial entities that 2 your department regulated? 3 Okay. We regulated security 4 broker/dealers, the registration of securities, 5 savings and loan -- state chartered savings and loan 6 associations, state chartered credit unions, loan 7 companies, loan brokers, check issuers, that's people 8 who issue money orders and sell travel checks, 9 prepaid funeral expenses and perpetual care 10 cemeteries. 11 0 When did Mr. Brady leave the department? 12 Α I really can't recall. 13 Was it while Ms. Bassett was the 0 14 supervisor? 15 Α Yes. Are you familiar with the circumstances of 16 0 17 his departure? 18 Not in particular, but I think he left at Α 19 her request. 20 So it's your understanding if he was not

21 terminated by her, she asked him to leave? 22 A Yes.

- 1 And had you seen any indication that 2 Ms. Bassett and Mr. Brady had problems working 3 together prior to his leaving the department? 4 Yes. 5 In your dealings with the Rose Law Firm 0 6 relating to the proposal from Madison Guaranty to 7 issue preferred stack, which lawvers at the Rose Law 8 Firm did you have contact with? The only lawyer I had was Rick Massey. 9 10 0 And in your meetings and discussions with representatives of Madison Guaranty, did they refer 11 to any lawyers at the Rose Firm other than 12 13 Mr. Massey? 14 Α No. 15 So from your observation, Mr. Massey was 16 the lawyer, outside counsel for the institution with primary responsibility for the matter, the preferred 17 stock proposal matter? 18 19 Α Yes. 20 Do you have any knowledge as to how the May 21 14, 1985 letter from Ms. Bassett to the Rose Law Firm 22 came to be addressed to Hillary Rodham Clinton? 166 1 I don't have any specifics. I just assumed 2 that they were in the legal practice together and knew each other fairly well. It was a friendly --3 4 she knew that Hillary worked for the Rose Law Firm. 5 But you're not aware of Ms. Clinton having 6 any contact with the securities department on this 7 matter? 8 As I told you, Beverly told me that Hillary Α phoned her up and said the filing had been made and 9 wanted to know who would handle it, and Beverly told 10 11 her to talk to me. I would be the person. 12 And that's the only contact that you're 13 aware of? 14 Α Yes. 15 Now, subsequent to your department issuing this May 14, 1985 letter, were there other conditions 16 that had to be met before the preferred stock could 17 18 be issued? 19 Α 20 And in particular, were there certain
- 21 federal regulations that Madison would have to comply with before they could issue the preferred stock? 22

167 1 Yes. We were concerned that the Federal Home Loan Bank had issued guidelines that the stock 2 3 issue had to meet before it could be issued and before it could be counted towards net worth 4 5 requirements, and we asked that those be met. So an additional regulatory approval would 6 have to be obtained from your department before the 7 stock could actually be issued; is that correct? 8 9 Α Yes. 10 O This letter, then, merely indicated that there was legal authority under Arkansas law to issue 11 the stock if the other relevant regulatory 12 requirements were met; is that correct? 13 14 Right. This was an opinion letter saying that they could do it. They had to file specific 15 application, give specific amounts and assurances 16 that it met the requirements of the Federal Home Loan 17 18 Bank and what type of stock it would be and the 19 rates. 20 Considering this proposal from Madison 0 21 Guaranty to issue preferred stock, do you recall, had your department ever received a similar proposal from 22 168 one of the other state chartered savings and loan 2 associations that you regulated? 3 No. This is the one and only such request. This was a new issue that your department 4 had to consider in terms of statutory authority? 5 6 Yes. Α 7 And in your discussions with Ms. Bassett, \mathbf{O} was anything said to you to indicate that this 8 9 proposal or application was being given special

10 treatment --11

-- either because of the role of 12 Mrs. Clinton or the identity of the entity that was 13

requesting approval; that is, Madison Guaranty and 14

Mr. McDougal? 15

16 It was never said and it was never -- I 17 never understood it to be that way.

If I could draw your attention again to 18 your affidavit that you gave to the RTC Inspector 19 General on April 7, 1994 on page 2. There's a 20 paragraph that reads "I was never pressured by anyone 21 22 at the Arkansas Securities Department, the Rose Law

169 1 Firm or Madison Guaranty to approve that Madison 2 Guaranty be allowed to issue preferred capital 3 stock." 4 Is that your recollection today, sir? 5 It's a very correct statement. 6 And leaving aside whether you yourself were 7 ever pressured, do you have any knowledge as to 8 whether the Arkansas Securities Department received 9 any pressure from the governor's office or any other source to approve this proposal? 10 11 None to my knowledge. 12 Mr. Gicale asked you some questions about the state savings and loan board and in particular, 13 the appointment of Mr. Latham and Dr. Kendall, I 14 believe, to that board. Do you recall those 15 16 questions? 17 Α Yes, sir. 18 Did I understand you correctly to testify 19 that that board functions as an appellate body to which a party can appeal a ruling by the savings and 20 21 loan supervisor? A Yes. The only initial things they would 22 170 consider would be a charter application. Every other 1 2 issue would be on an appeals basis from the decision 3 of the supervisor. 4 And is there an Arkansas statute that 5 requires a member of that board to recuse him or 6 herself if he or she has a conflict of interest? 7 Yes. Α 8 And Mr. Gicale asked you or made reference 9 to the possibility of Madison appealing an adverse 10 ruling on this preferred stock issue if one had been 11 handed down by the savings and loan supervisor. If such an appeal were taken, would the state statute 12 have required Mr. Latham and Mr. Kendall if they were 13 on the board at that time to recuse themselves? 14 15 Α Yes, and another member appointed. 16 So Madison would have received no benefit in that instance from persons having an affiliation 17

A I think they put that safeguard in there.

with it being members of the savings and loan board;

Q In fact, to the contrary, since those two

22 persons could serve and someone else would be

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is that correct?

appointed, it might even be a detriment to them? 1 2

Could be

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Madison Guaranty entered into a supervisory 3 0 4 agreement with the Federal Home Loan Bank Board in 1984: is that correct? 5

> That's correct. Α

And was your office consulted about that 0 agreement before it was entered into between the Federal Home Loan Bank Board and Madison?

Yes. As I recall, we got a draft copy of the agreement, and I'm almost sure that Beverly had talked to the supervisor in charge regarding it. But I know we did get a draft copy to review before it was executed for our comments.

15 O And that supervisory agreement was predicated on the findings of the federal examination 16 of Madison Guaranty that occurred --17

I think that was a large base of it. And 18 other things like we discussed, the quarterly 19 financial statements filed and audited financial 20 21 statements. But the major thing was the '84 22 examination report.

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And Mr. Gicale asked you a number of 1 2 questions about what your department -- state of 3 Arkansas could have done in addition to or instead of the actions that were taken by the federal 4 regulators. Would that have been unusual for your 5 6 state department to have taken a different approach than the approach taken by the federal regulators 7 with regard to a troubled financial institution? 8 9 Yes, very much so. 10

And why is that? 0

I think they were the ones doing the exam.

They were the ones that had the detailed 12

examinations. They had intermediate steps, other 13

than closing them down, like issue the supervisory 14

15 agreement and cease-and-desist order and replace

management and things like that. They had steps in 16

their statutes and rules and regulations they could 17

take which we didn't, and they generated the 18

19 examination report.

So if I understand your testimony correctly, the supervisory agreement that they entered into with Madison was the regulatory response

173 1 that they, based upon their expertise, deemed 2 appropriate for this institution at the time; is that 3 correct? 4 Yes, that was pretty common practice, I A 5 think. 6 And essentially, while your office might 0 7 have objected to that, your department had no powers other than to seek a receiver if you disagreed with 8 9 that approach; is that correct? 10 That's right, or conservator in state court 11 action. 12 0 Would the Arkansas Savings and Loan 13 Department have needed the cooperation of the Federal 14 Home Loan Bank Board and the FSLIC in order to put a 15 state chartered S&L into receivership? 16 Yes 17 Particularly with regard to paying off 0 18 depositors? Very much so. They were the insurer. They 19 20 were the ones that would have to pay the money out. In other words, your department did not 21 22 have the funds available or the responsibility to pay 174 1 off the depositors; is that correct? 2 That's correct. That responsibility was with the Federal 3 4 Savings and Loan Insurance Corporation, FSLIC? 5 Correct. They had FSLIC insurance. 6 Up to the limitations that were provided at 0 7 the time per account. So if your department had taken action to shut down or place into receivership 8 9 Madison Guaranty without the assent and cooperation 10 of the federal regulatory authorities, you could have 11 had a situation where a bank was being closed down 12 and the funds were not available to pay off the 13 depositors; is that correct? 14 It could have caused total chaos, not only 15 in Arkansas but throughout the FSLIC insurance 16 system. 17 And did there come a time when your department, in general, and Ms. Bassett in 18

21 Yes. We sent a certified letter to the director of FSLIC, I think Mr. Stewart Root advised 22

particular, asked the federal regulatory authorities

to work with you to shut down Madison Guaranty?

19

175 him we had three savings and loans which were 1 2 insolvent, which had been insolvent and we wanted him 3 to take it over. 4 And when did that take place? When did 5 your department send that letter, if you recall? 6 I don't know the specific date. Was it in 1987? 7 0 8 Α Yes, latter part of 1987. 9 And what had happened at that time to prompt your department to take that action? What had 10 11 happened with regard to Madison that prompted your 12 department to take that action? 13 We received an audit report from Peat Marwick on the association which reflected that the 14 15 savings and loan was insolvent. 16 Was that audit report the first -- and I'll use the word "proof," but you correct me if that's 17 not the right word - proof that your department had 18 that the institution was actually insolvent? 19 20 Α Yes. 21 Prior to that time, while you may have had 0 22 concerns about their capital, you had no proof that 176 1 they were insolvent; is that right? 2 That's right. 3 And were there other state chartered 4 institutions that you regulated that also had capital 5 problems during that time? 6 Α Yes 7 O And so the situation with Madison was not 8 unique? 9 No, I don't think it was unique in the whole industry at the time. 10 Either at the federal level or the state 11 12 level? 13 Yes. A 14 During the period that Ms. Bassett was the savings and loan supervisor and your office was 15 considering various regulatory issues relating to 16 Madison Guaranty, did you ever have any indication 17 that Madison was receiving special treatment or that 18 she was taking unusual action with respect to 19 20 Madison? 21 No, not at all. A

To your observation, was Madison being

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    treated in the same way that other institutions in
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 2
    the state were being treated by your department?
 3
        A
             Yes
 4
        0
             And how long have you been with the
 5
    department?
6
             26-1/2 years.
        Α
 7
             So I take it that you served under both
 8
    Republican and Democratic governors and under a
9
    variety of savings and loan supervisors?
10
             Yes
        Α
11
             And did you see anything unusual in the way
    that Madison was being regulated under Ms. Bassett's
12
13
    supervision?
14
        A
            No.
15
             Mr. Gicale also asked you some questions
    about the Campobello project, and I believe you
16
17
    testified that at a later time it came to your
    attention that Ms. Bassett had sent a letter to your
18
19
    department in 1984 before she became savings and loan
20
    supervisor transmitting some documents relating to
    Campobello; is that correct?
21
22
             Yes.
                                                            178
 1
        O And did you ever discuss that with
 2
     Ms. Bassett?
 3
             I think in one of our phone conversations
     after the newspaper articles came out, she talked
 4
    with Gerth, or Garth. We did discuss that.
 5
 6
             And what did she say?
 7
             She told me that she -- her only extent to
 8
     that was to draft that letter and send the documents
 9
     that were enclosed and she had very little dealings
10
     with these files.
11
            And you were -- at the time period we're
12
     talking about, which is 1984, before Ms. Bassett was
     named savings and loan supervisor, you were the
13
     examination agent or examiner in charge of reviewing
14
     Madison submissions, were you not?
15
16
             Yes.
         Α
17
             Did you review submissions related to
18
     Campobello?
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         Α
             Yes.
20
              And did you see anything that would
21
     indicate that Ms. Bassett had any involvement beyond
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what she described to you in your discussion?

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No. Most of my dealings was with John
 1
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    Selig of the law firm, former securities
 3
    commissioner.
 4
             And the Campobello application was approved
    by Mr. Thalheimer; is that correct?
 5
 6
        Α
             Yes.
7
        0
             And did he discuss that with you before
 8
    approving it?
9
             Yes. We had several discussions.
        Α
10
             So you testified earlier, I believe, you
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11
    were not aware of the letter, the approval letter
12
    that Mr. Gicale showed you before it went out, and I
    just wanted to clarify that you were aware of the
13
14
    issue and had discussed it with Mr. Thalheimer, but
15
    you didn't know that a letter had been sent out.
             Yes. I didn't know it had been approved
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17
    until I got that sometime in January. I thought we
18
    still had some issues to resolve.
             Did you state earlier that your department
19
20
    also regulates prepaid funeral expenses?
21
             Ves
22
        \circ
             And is that the same as burial insurance?
                                                             180
 1
             No. They're different. Burial insurance
 2
    is like an insurance. Prepaid is like a sales
 3
    contract where you prepay -- you pay for your funeral
 4
    in advance. It's for a fixed contract amount.
 5
             There have been some press articles
 6
    relating to allegations against a former municipal
 7
    judge in Little Rock named David Hale and a company
 8
    that, according to the articles, he controlled that
 9
    was in the burial insurance business.
10
            Did your department have any regulatory
11
     authority over that matter?
12
             Yes, we did. It wasn't the burial --
13
             MR. GICALE: I would object. I'm going to
14
     object to the relevance at this point.
15
             MR. COLE: Are you going to instruct him
16
     not to answer?
17
             MR. GICALE: Let's go off the record for a
18
     second.
19
             (Discussion off the record.)
20
             MR. COLE: I don't have anything further at
21
     this time.
22
             MR. GICALE: I just have a few questions.
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1		EXAMINATION	
2		BY MR. GICALE:	
3	Q	First, Mr. Selig was a former securities	
4	commis	sioner?	
5	Α	Uh-huh.	
6	Q	When was that?	
7	Α	Prior to Mr. Thalheimer.	
8	Q	You served under him?	
9	Α	Yes.	
10	Q	For how long?	
11	Α	As long as he was there. He was there four	
12	or five y	years.	
13	Q	And you had also dealt with him on this	
14	issue of	Madison Guaranty; correct?	
15	Α	We filed the Campobello application.	
16	Q	And he represented the Madison Guaranty	
17	when		1
18	Α	At the meeting in Dallas.	
19	Q	at the meeting in Dallas in July of	
20	1986?		
21	Α	Yes.	
22	Q	Correct?	
_		The state of the s	
			182
1	A	Uh-huh. He represented the board of	182
1 2	A	Uh-huh. He represented the board of s.	182
1 2 3	A directors	Uh-huh. He represented the board of s. You were present for that meeting; correct?	182
1 2 3 4	A director	Uh-huh. He represented the board of s. You were present for that meeting; correct? Yes.	182
1 2 3 4 5	A director	Uh-huh. He represented the board of s. You were present for that meeting; correct? Yes. Along with Beverly Bassett? Was she there?	182
1 2 3 4 5 6	A director: Q A Q A	Uh-huh. He represented the board of s. You were present for that meeting; correct? Yes. Along with Beverly Bassett? Was she there? Yes.	182
1 2 3 4 5 6 7	A director: Q A Q A Q	Uh-huh. He represented the board of s. You were present for that meeting; correct? Yes. Along with Beverly Bassett? Was she there? Yes. Who else was there from the securities	182
1 2 3 4 5 6 7 8	A director Q A Q A Q Commis	Uh-huh. He represented the board of s. You were present for that meeting; correct? Yes. Along with Beverly Bassett? Was she there? Yes. Who else was there from the securities sion?	182
1 2 3 4 5 6 7 8 9	A director Q A Q A Q commis A	Uh-huh. He represented the board of s. You were present for that meeting; correct? Yes. Along with Beverly Bassett? Was she there? Yes. Who else was there from the securities sion? Just us two.	182
1 2 3 4 5 6 7 8 9	A director Q A Q A Q commis A Q	Uh-huh. He represented the board of s. You were present for that meeting; correct? Yes. Along with Beverly Bassett? Was she there? Yes. Who else was there from the securities sion? Just us two. Do you recall a conversation at that	182
1 2 3 4 5 6 7 8 9 10	A director Q A Q A Q commis A Q meeting	Uh-huh. He represented the board of s. You were present for that meeting; correct? Yes. Along with Beverly Bassett? Was she there? Yes. Who else was there from the securities sion? Just us two. Do you recall a conversation at that with respect to who was representing the	182
1 2 3 4 5 6 7 8 9 10 11 12	A director Q A Q A Q commis A Q meeting bank, M	Uh-huh. He represented the board of s. You were present for that meeting; correct? Yes. Along with Beverly Bassett? Was she there? Yes. Who else was there from the securities sion? Just us two. Do you recall a conversation at that with respect to who was representing the ladison Guaranty? Do you recall Beverly	182
1 2 3 4 5 6 7 8 9 10 11 12 13	A director Q A Q A Q Commis A Q meeting bank, M Bassett	Uh-huh. He represented the board of s. You were present for that meeting; correct? Yes. Along with Beverly Bassett? Was she there? Yes. Who else was there from the securities sion? Just us two. Do you recall a conversation at that with respect to who was representing the fadison Guaranty? Do you recall Beverly asking who was there to represent the bank?	182
1 2 3 4 5 6 7 8 9 10 11 12 13 14	A director Q A Q A Q Commis A Q meeting bank, M Bassett A	Uh-huh. He represented the board of s. You were present for that meeting; correct? Yes. Along with Beverly Bassett? Was she there? Yes. Who else was there from the securities sion? Just us two. Do you recall a conversation at that with respect to who was representing the ladison Guaranty? Do you recall Beverly asking who was there to represent the bank? No, I don't recall it, but I watched the	182
1 2 3 4 5 6 7 8 9 10 11 12 13 14 15	A director Q A Q A Q Commis A Q meeting bank, M Bassett A hearings	Uh-huh. He represented the board of s. You were present for that meeting; correct? Yes. Along with Beverly Bassett? Was she there? Yes. Who else was there from the securities sion? Just us two. Do you recall a conversation at that with respect to who was representing the ladison Guaranty? Do you recall Beverly asking who was there to represent the bank? No, I don't recall it, but I watched the seand that issue came up.	182
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1 Α Uh-huh.

And she said that was her only involvement 2 O 3 with Campobello?

Uh-huh Α

5 That's what she told you over the phone: 6 right?

7 Α Right.

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8 0 Did she tell you she had written a memo in

March of 1984 about Campobello and possible 9

10 violations of Interstate Land Sales Act?

11 She mentioned she did some work on the 12 Interstate -- whatever that act is

> The Interstate Land Sales Act. O

Yes. She said that was the only work she

15 had done, writing that letter.

You earlier testified the only thing she 16 did was write the letter. Does this now refresh your 17 recollection as to something else? 18

19 There's two. She told me she did some work 20 on the federal law, that law. I couldn't remember 21 the name of it and write the letter.

Q Is there anything she told you she did for 22

184

Campobello or Madison Guaranty or Madison Financial?

No.

MR. COLE: I think you successfully refreshed his recollection.

BY MR. GICALE:

6 Is there any reason why your agency could 7 not have asked for more frequent reports reflecting 8 the service corporation's investment -- I'm sorry, 9 Madison Guaranty's investment in the service 10 corporation in 1985?

11 I don't think there's any reason. I don't 12 know if there's anything there that would give us 13 authority to do that. I mean, I don't remember 14 that. I could ask. I don't know if we could have

made them. 15

According to the Federal Home Loan Bank reports in 1986, the five new projects entered into by Madison Financial during 1985 resulted in a \$5 million increase in direct investments since that regulation became effective in '85.

21 Uh-huh. A

O Don't you think that with more frequent reviews of the status of these investments that things could have been prevented?

In hindsight, yes. But there's a lot of

things I'd do differently in hindsight. I mean --You'll admit, then, by waiting until you

received the report in 1986 that a lot of time had passed and things that occurred could not be prevented?

These people violated the act willfully. That's what had happened, but you don't assume that everybody is a crook out there. You have to assume that people are honest. If we knew these people were crooks and were going to cause a loss to us, we could

14 have done a lot of things differently. 15

Well, putting aside whether or not they were crooks, you knew that from 1984, the beginning of 1984 throughout the balance of '84 and '85, these people kept promising increases in net worth and changing their position and they were doing nothing about it. So they weren't -- at a minimum, they weren't upholding their agreements to straighten out

22 their net worth?

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That's right, but you have to give them time to comply with those agreements, and I think we did and when we found out, we took the appropriate action.

MR. COLE: When you say they were doing nothing about it, you mean the preferred stock and the other proposals they were setting forth?

THE WITNESS: Which we set a time frame to meet and after they didn't meet it, they issued a cease-and-desist letter.

BY MR. GICALE:

As you earlier stated, you did not think that the preferred stock would go anywhere?

No, but I hoped it would.

MR. GICALE: I have nothing further.

MR. COLE: I have nothing further.

17 (Whereupon, at 5:23 p.m., the deposition 18 was concluded.)

19

20 21

CHARLES F. HANDLEY

I, JULIE BAKER , the officer before whom the foregoing deposition was taken, do hereby certify that the witness whose testimony appears in the foregoing deposition was duly sworn; that the testimony of said witness was taken in shorthand and thereafter reduced to typewriting by me or under my direction; that said deposition is a true record of the testimony given by said witness; that I am neither counsel for, related to, nor employed by any of the parties to the action in which this deposition was taken; and, further, that I am not a relative or employee of any attorney or counsel employed by the parties hereto, nor financially or otherwise interested in the outcome of this action.

Notary Public in and for the District of Columbia

My Commission Expires SEPTEMBER 30, 1997



DEPOSITION OF LISA CAPUTO IN RE: S. RES. 120

THURSDAY, DECEMBER 21, 1995

U.S. SENATE,
COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS,
SPECIAL COMMITTEE TO INVESTIGATE WHITEWATER
DEVELOPMENT CORPORATION AND RELATED MATTERS,
Washington, DC.

Deposition of LISA CAPUTO, called for examination pursuant to notice of deposition, at 2:05 p.m. in Room 538 of the Dirksen Senate Office Building, before JANE W. BEACH, a Notary Public within and for the District of Columbia, when were present:

ALICE S. FISHER, Esq.
Majority Deputy Special Counsel
NEAL E. KRAVITZ, Esq.
Minority Principal Deputy Special Counsel
DAVID M. LUNA, Esq.
Minority Law Clerk
U.S. Senate
Committee on Banking, Housing, and Urban Affairs
534 Dirksen Building
Washington, DC 20510
On behalf of the Committee.

WILLIAM W. TAYLOR III, Esq. LESLIE M. BERGER, Esq. Zuckerman, Spaeder, Goldstein, Taylor & Kolker 1201 Connecticut Avenue, NW Washington, DC 20036 On behalf of the Deponent.

CONTENTS

WITNESS	Examination
Lisa Caputo	
by Ms. Fisher	6
Errata	

		3
1	PROCEEDINGS	
2	COMMITTEE CONFIDENTIAL	
3	MS. FISHER: On the record.	
4	Hi, Ms. Caputo. My name is Alice Fisher.	
5	I am Deputy Special Counsel for the Majority.	
6	To my left is Neal Kravitz who is Deputy	
7	Special Counsel for the Minority; and David and I am	
8	sorry, I did not catch your last name?	
9	MR. LUNA: Luna.	
10	MS. FISHER: Luna, who also works for the	
11	Minority.	
12	This deposition is being conducted	
13	pursuant to Senate Resolution 120. The Resolution	
14	establishes a Special Committee administered by the	
15	Banking Committee to conduct an investigation	
16	involving Whitewater Development Corporation, Madison	
17	Guaranty Savings & Loan and other related matters.	
18	Section 1(b)(2) of the Resolution	
19	authorizes investigation and public hearings into	
20	several issues which will be the focus of today's	
21	deposition.	
22	I do not know whether you are familiar	
		4
1	with this, or you have seen a copy [referring to the	
2	Resolution].	
3	MS. CAPUTO: I have not.	
4	(Handing document to the witness.)	
5	MS. FISHER: Do you want to look at a	
6	copy? Counsel also has a copy.	
7	(Pause.)	
8	(Discussion off the record.)	
9	MS. FISHER: This deposition is being	
10	conducted in advance of public hearings which may	
11	start again in January. At this time I have no idea	
12	whether you will be called to testify.	
13	I will ask you a series of questions and	
14	ask that you testify under oath. If you do not	
15	understand a question, please let me know and I will	
16	rephrase it.	
17	If you need a break or you would like to	
18		
	consult with counsel, just let me know.	
19	The Stenographer will prepare a record of	
20	The Stenographer will prepare a record of the questions and answers, and the deposition will be	
	The Stenographer will prepare a record of	

41-384 97 - 18

5 Prior to the public hearings, you will 1 2 receive a letter letting you know that you can come to the Senate and review your transcript, if you 3 would like, and make any changes, fill out an errata 4 5 sheet for any typographical or other errors. 6 I see that you are represented by counsel. 7 If you would like to state an appearance for the 8 record? 9 MR. TAYLOR: William Taylor and Leslie 10 Berger. 11 MS. FISHER: Objections to the form of the 12 questions will be noted for the record. Counsel may 13 object on the grounds of privilege or relevance, and 14 if you do so the Committee Chairman may be called to 15 rule on any objection. Would you please swear in the witness? 16 17 (Witness sworn.) 18 Whereupon, 19 LISA CAPUTO 20 was called for deposition in the above-entitled 21 matter and, having been first duly sworn by the Notary Public, was examined and testified as follows: 22 6 **EXAMINATION** 1 2 BY MS. FISHER: 3 Could you state your name for the record? Q 4 Α Lisa Caputo. 5 6 7 Could you state what your employment position was between January 1993 and February 1994? 8 9 Deputy Assistant to the President, and 10 Press Secretary to the First Lady at the White House. 11 Was that your title throughout that 0 12 period? 13 Α Yes. 14 0 Is it correct that you also worked on the 1992 Presidential Campaign for President Clinton? 15 16 Yes. A 17 0 And what was your title there? 18 Α Press Secretary to the First -- to Hillary 19 Rodham Clinton. 20 Who did you report to on the campaign? Q 21 I reported to Mrs. Clinton. A

And in your position now, who do you

22

Q

1	report to?	
2	A I report to Maggie Williams, the Chief of	
3	Staff, and to Mrs. Clinton.	
4	Q Are you aware of the Committee's document	
5	request served on the White House?	
6	A Yes.	
7	Q Were you asked to were you or your	
8	counsel asked to look for responsive documents?	
9	A Yes.	
10	Q And do you know of any documents that were	
11	responsive that were not produced to the Committee?	
12	A No, I do not.	
13	Q Did you speak to anyone other than your	
14	counsel prior to this deposition about the	
15	deposition?	
16	A No.	
17	Q Am I correct, Ms. Caputo, that you didn't	
18	work on any Whitewater-related matters when you were	
19	working on the 1992 Presidential Campaign?	
20	A Yes, that's correct.	
21	Q I want to show you some notes that were	
22	produced to the Committee by the White House and just	
	8	
1	basically ask you to go through them with me not	
1 2		
	basically ask you to go through them with me not	
2	basically ask you to go through them with me not that I can't read them, that they're illegible or	
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9 1 Do you recall the circumstances under 2 which --3 Α I can't, you know, reconstruct sitting 4 here; it was a long time ago; but I remember that at 5 the time there were questions coming in from the 6 media, and I as the press secretary was just trying 7 to assemble some kind of context on what was going 8 on. 9 Q What were the questions that you recall? 10 Α Pertaining to this? 11 0 Pertaining to those notes, yes. 12 This had to do with an inquiry from 13 someone at The New York Times about -- I'd have to see 14 the documents, which I'm sure you probably have, that 15 goes with this. 16 What do they look like? 17 Could you describe what it is? 18 It's a request from The New York Times; an 19 inquiry from The New York Times. 20 0 This one? 21 (Handing document to the witness.) 22 Gottcha; okay. 10 1 So that is document -- does this also go 2 with this? They weren't produced in this order. 3 That (indicating), this (indicating), this 4 (indicating), and this (indicating). 5 Do you know what order they go in? Q 6 A Well, I don't know that there's a specific 7 order, but --8 They're all together? Q 9 It all pertains to the same thing, which 10 is this (indicating). 11 Okay. 0 12 So that's S12445, 446, and 444. 13 Α Right. 14 0 And they go with \$12394. 15 So you know, this (indicating) is like 16 this (indicating). It's front, back; front, back. 17 So it's like this (indicating). 18 0 Okay. Let's just state that for the 19 record. 20 S012444 is the front page dated 11/1/93, 21 with S12394 being the back page.

And S12445 dated 11/1/93 is the front page

		11	
1	of a do	cument that's S012446 is the back page.	
2		And all four of these documents pertain to	
3	the sam	ne thing?	
4	Α	Yes.	
5	Q	And is this	
6	Α	That's my recollection.	
7	, Q	is S12445 what started this inquiry	
8		you were taking these notes?	
9	A	Yes.	
10	Q	The question from The New York Times?	
11 12	A	As best I can remember.	
13	Q what wa	Okay. Just in general, can you tell me our understanding of this issue was at this	
14	-	Was this the first that you had heard of this	
15	issue?	was this the first that you had heard of this	
16	A	This document, S021445 reflects a phone	
17		e taken from one of my deputy press secretaries	
18		of Girth of The New York Times.	
19	Q	Okay. So this is not your handwriting?	
20	À	No, it's not.	
21	0	And what are the initials that appear on	
22	the bott		
		12	
1	A	The state of the s	
2		NL. And who is NL?	
2 3	A Q A	NL. And who is NL? Neal Lattimore, one of my deputy press	
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13 1 Guaranty at the Rose Law Firm. 2 Do you have any sense of whether, when you received this question, you had some sense of that? 3 A I don't believe I did, because I didn't 4 5 know really anything at all about Madison Guaranty or 6 the Whitewater matter. 7 After you received these questions from Mr. Girth, did you attempt to go collect the 8 9 information to respond to them? 10 Α I believe I did. 11 0 And are those your notes in the margin over there? 12 13 Α Yes 14 This was me trying to clarify what the 15 reporter had called to ask about, was me clarifying 16 with the deputy press secretary. 17 Can you just read those? I did when I -- "Did HRC discuss retiring 18 19 campaign debt with McDugal?" "In relation with her work with Madison 20 21 Guaranty, the work that she was doing for McDugal, with BC" 22 14 1 Okay, I see. That's also my writing right there "for 2 3 Madison Guaranty." Do you recall, after receiving these 4 questions did you discuss these questions with Mrs. 5 Clinton? 6 7 A I have no memory of having a conversation with Mrs. Clinton about this, sitting here today. 8 9 At any time? Q Pertaining to the Jeff Girth question? 10 A 11 Well, pertaining to the work that Mrs. Clinton did while she was at the Rose Law Firm for 12 13 Madison Guaranty. 14 Α In what time frame? Well why don't we start with the Fall of 15 0 16 1993. 17 I don't recall having a conversation with her about that in the Fall of 1993, sitting here 18 19 today. 20 How about early 1994? 0 Let me say that the first memory I have 21

would be preparing Mrs. Clinton for her April 1994

15 press conference. But beyond that, I just have no 1 2 memory of a specific conversation. 3 When you received these questions, did you 4 discuss them with Maggie Williams? 5 Not that I recall. Did you discuss these questions with Bruce 6 0 7 Lindsey? 8 I do believe I did do that. A 9 O Okay. And is that conversation reflected in your notes on 012446? 10 11 Α Yes. 12 And do you recall whether this was the same day that you spoke to Mr. Lindsey that you 13 14 received this note? Would it have been 11/1/93? 15 Yes, I believe it was. 16 17 Okay. Could you just slowly read those in? 18 19 It says "Bruce Lindsey" at the top. 20 "Did HRC meet with McDugal? Did she discuss with BC? If not, what is right answer? HRC 21 22 never discusses clients with any member of the 16 1 family." 2 Let me stop you there. 0 Is this Mr. Lindsey telling you something 3 that you're writing down? Or is this you writing 4 down your questions for Mr. Lindsey? 5 6 I don't remember the conversation, 7 specifically. I don't even remember making the 8 notes. 9 I can only say that -- I can speculate that 10 what I probably did was look at the request from the reporter and pull his two questions out and put them 11 at the top of the page to ask Bruce Lindsey. 12 How did you know that Bruce Lindsey, or 13 14 why did you contact Bruce Lindsey rather than someone 15 else in the White House? Because Bruce Lindsey was the person that 16 17 I would look to who had a knowledge of this matter and would respond to press inquiries on this matter. 18 19 Madison matters? 20 Or are you talking about like Arkansasrelated matters, or --21 22 I'm talking Whitewater matters and

1 Arkansas matters, as well,

> Okay. So if you could just keep reading. 0

3 "Not sure HRC ever met with MD." A

4 And "MD" would be McDugal? 0 5

Α Yes.

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And do you believe that this is what Mr. 0

7 Lindsey was telling you?

Again, sitting here, this was two years 8 ago. I have no memory of this conversation. I 9 can't -- I have no picture in my mind. I can only say 10

that that would indicate to me that that is what the 11

12 notes reflect.

13 Do you believe that this was a telephone conversation that you had with Mr. Lindsey, or maybe 14 15 a meeting?

I would guess it was a telephone Α conversation.

18 0 Okav.

19 "Rose Law Firm hired by Madison Guaranty 20 to try and approve some form of stock in order to

raise additional capital. An associate did most of 21

all the work to request to securities company. HRC 22

18

1 signed the letter. Has no idea of any conversations 2 between HRC and MD." 3

Now if I could just stop you there, I understand that it is hard to recollect, but given 4 5 the fact that you do not believe that you knew of 6 these matters prior to the time you received this 7 inquiry, do you think that Mr. Lindsey was telling you that he has no idea, or whatever that says, or 8 no -- or was it Mrs. Clinton telling Mr. Lindsey that 9

was telling you that there was no recollection? 10 11

I don't know. This just reflects to me a conversation I had with Bruce Lindsey.

March 20, 1922, Washington Times:

"HRC received \$2000 from Madison Guaranty.

1984, Clintons were partners in 15

Whitewater. Under investigation for being 16

insolvent. HRC did not intervene, was not

attorney of record -- Washington Times. 18 19

HRC's name mentioned in two letters from Rose Law Firm. 1985, April and May, Rose

Law firm was trying to convince State

Securities Board to allow [sic] at some 22

19 fund raiser being held. Bruce Rich Massey 1 2 did all the work." 3 All right, let's just set this aside for a 0 4 second. 5 Did you do anything else to follow up on 6 these questions that you received from Mr. Girth? 7 I think I then had a conversation with Jim 8 Lyons. 9 0 And who is Mr. Lyons? 10 Α A Denver attorney. 11 0 Did you know Mr. Lyons prior to November 12 1993? 13 Α Yes. 14 0 What was your relationship with Mr. Lyons? 15 Or how did you know him? 16 I knew him as an associate of Senator Tim-17 Wirth for whom I worked prior to joining the Clinton 18 Campaign. 19 And did you occasionally call Mr. Lyons regarding press inquiries that you received at the 20 21 White House? 22 Α Pertaining to? 20 1 Pertaining to anything. 2 Was this a normal thing for you to do to 3 call Mr. Lyons? Or was there a particular reason why 4 you called him on this occasion? 5 Bruce Lindsey and Jim Lyons were the two people I would call if I had an inquiry pertaining to 6 the Whitewater matter because I didn't know anything 7 8 about it. 9 O Okav. 10 And oftentimes I would refer reporters to them because I didn't know anything about the matter. 11 12 O Refer reporters to either to Mr. Lindsey 13 or to Mr. Lyons? 14 Unusually -- right. Yes. 15 Q Was it your understanding that Mr. Lyons 16 would normally field press calls on behalf of the 17 White House? 18 I don't think Mr. Lyons was fielding press 19 calls on behalf of the White House, but he was 20 someone who had knowledge from dating back to the 21 campaign about the Whitewater matter, and I know that 22 he would receive press inquiries independently on the

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1 Whitewater matter.
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Q So to the best your recollection, was this the first time that you called Mr. Lyons regarding an issue that came up with the press in your job while at the White House?

A I don't know if it was the first time.

7 Again, this was two years ago.

MR. TAYLOR: That is not the question.

9 The question is, if this was the first time.

THE WITNESS: I don't know if it was.

BY MS. FISHER: (Resuming)

Q Okay. Could you continue?

A "Jim Lyons, 11/1/93. McDugal version, BC

and HRC solicited business from him.

"Version B: Younger associate at Rose law firm brought in this client. Present plan to

17 Securities Commission."

Q Could I stop you just right there?

Do you have a recollection of having this conversation with Mr. Lyons, independent of your

21 notes?

22 A No.

22

Q Do you have an understanding of whether he was explaining to you two different sides of the story, where he calls them "version A and version B"? They seem to be conflicting versions and

They seem to be conflicting versions and what I am trying to get at is: What is your best recollection of what he was referring to? Whose stories?

A My best recollection is that there are two versions. One is Mr. McDugal's version, and the other is the Clinton or White House version.

11 Q Do you have a recollection of where Mr. 12 Lyons received this information?

A No.

Q Okay. If you could just go on.

15 A "Number one: Offer preferred stock,

16 number two, to allow holding company to engage in

17 certain brokerage activities. Letter written to

18 securities commissioners, cc'd to HRC. HRC said

never spoke to securities commissioner, and sheconfirmed it. HRC role, at best, was to monitor.

21 Only got copy of letter. No involvement meetings on

22 behalf of Madison before that agency or any agency

		23
1	where her husband appointed a head of an agency."	
2	Q To the best of your recollection, is this	
3	Mr. Lyons giving you information that you are then	
4	taking down in your notes?	
5	A This seems to me to reflect Mr. Lyons	
6	telling me this, which I then wrote down.	
7	Q Okay. Okay. And then is there something	
8	on the back that also pertains to this?	
9	A This reflects, as best I can remember, a	
10	phone conversation I had with Betsy Wright.	
11	Q Who is Betsy Wright?	
12	A Betsy Wright was former chief of staff to	
13	former Governor Clinton.	
14	Q Do you know what Mrs. Wright's, or Ms.	
5	Wright's position is at this time? Is she a member	
6	of the White House?	
17	A No.	
8	Q Is she in Washington, or Arkansas?	
9	A I think she is in Washington, but I am not	
20	exactly sure where.	
21	Q Is she in the Administration?	
22	A No, I don't believe she is.	
		0.1
	O Put this is a Washington	24
1	Q But this is a Washington number, you	24
1 2	believe, this 662 number?	24
1 2 3	believe, this 662 number? A Yes.	24
1 2 3 4	believe, this 662 number? A Yes. Q And prior to this conversation with Ms.	24
1 2 3 4 5	believe, this 662 number? A Yes. Q And prior to this conversation with Ms. Wright, did you know her	24
1 2 3 4 5 6	believe, this 662 number? A Yes. Q And prior to this conversation with Ms. Wright, did you know her A Yes.	24
1 2 3 4 5 6 7	believe, this 662 number? A Yes. Q And prior to this conversation with Ms. Wright, did you know her A Yes. Q prior to this time?	24
1 2 3 4 5 6 7 8	believe, this 662 number? A Yes. Q And prior to this conversation with Ms. Wright, did you know her A Yes. Q prior to this time? And how did you come to know Ms. Wright?	24
1 2 3 4 5 6 7 8 9	believe, this 662 number? A Yes. Q And prior to this conversation with Ms. Wright, did you know her A Yes. Q prior to this time? And how did you come to know Ms. Wright? A In the 1992 campaign.	24
1 2 3 4 5 6 7 8 9	believe, this 662 number? A Yes. Q And prior to this conversation with Ms. Wright, did you know her A Yes. Q prior to this time? And how did you come to know Ms. Wright? A In the 1992 campaign. Q Do you believe that on your own initiative	24
1 2 3 4 5 6 7 8 9	believe, this 662 number? A Yes. Q And prior to this conversation with Ms. Wright, did you know her A Yes. Q prior to this time? And how did you come to know Ms. Wright? A In the 1992 campaign. Q Do you believe that on your own initiative you called Ms. Wright? Or did Mr. Lindsey or Mr.	24
1 2 3 4 5 6 7 8 9	believe, this 662 number? A Yes. Q And prior to this conversation with Ms. Wright, did you know her A Yes. Q prior to this time? And how did you come to know Ms. Wright? A In the 1992 campaign. Q Do you believe that on your own initiative you called Ms. Wright? Or did Mr. Lindsey or Mr. Lyons tell you to call her?	24
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1 2 3 4 5 6 7 8 9 10	believe, this 662 number? A Yes. Q And prior to this conversation with Ms. Wright, did you know her A Yes. Q prior to this time? And how did you come to know Ms. Wright? A In the 1992 campaign. Q Do you believe that on your own initiative you called Ms. Wright? Or did Mr. Lindsey or Mr. Lyons tell you to call her? A I can't remember. Q Did you generally call Ms. Wright for inquiries of this nature?	24
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1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 19 19 19 19 19 19 19 19 19 19 19 19	believe, this 662 number? A Yes. Q And prior to this conversation with Ms. Wright, did you know her A Yes. Q prior to this time? And how did you come to know Ms. Wright? A In the 1992 campaign. Q Do you believe that on your own initiative you called Ms. Wright? Or did Mr. Lindsey or Mr. Lyons tell you to call her? A I can't remember. Q Did you generally call Ms. Wright for inquiries of this nature? A It wouldn't be out of the ordinary for me to call Betsy Wright about matters pertaining to	24
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25 1 I don't know what their relationship was, 2 other than I am sure they were friends. 3 The only reason I asked is that these 4 matters seemed to be matters involving inquiries 5 about Mrs. Clinton's role, and I was just wondering 6 how it was that it would come to you to call Ms. 7 Wright about this. 8 Again, as I say, someone may have said why don't you call Betsy, but it also wouldn't be out of 9 10 the ordinary to pick up the phone and call Betsy 11 because she was an institutional memory for Arkansas 12 matters. 13 Did she come to the White House often in O 14 19932 15 I don't remember ever seeing her at the Α 16 White House. 17 Could you just read your notes there? 0 18 Α Sure 19 "HRC not involved in the fund raiser. 20 There was no connection between the work done for 21 Madison Guaranty by the Rose Law Firm and the Clinton 22 Campaign. 26 1 "Mrs. Clinton has no recollection of, does 2 not recall having conversations with Mr. McDugal 3 about campaign debt." 4 And to the best of your recollection, this is Ms. Wright giving you information that you are 5 6 then taking down in your notes? 7 Yes. 8 Did you discuss at these times with Mrs. Clinton your conversation with Ms. Wright, Mr. 9 10 Lindsey, or Mr. Lyons? 11 I have no memory of having a conversation with her about this. 12 13 Q Do you have a memory of speaking to anyone 14 else about these matters at that time in this 15 November time frame? 16 Α No.

19 No. 20 Was there anyone in the White House counsel's office that generally helped to field 21 22 Whitewater or Madison-related questions in the fall

Anyone from the White House counsel's

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office?

1 of 1993?

2 A No.

Q Did you at any time other than the press conference in April of 1994, did you at any time discuss these matters with David Kendall?

A During this time period?

Q Yes -- well, other than preparing for the press conference which you have already testified to.

A Not that I remember specifically.

Q Did you, after these three conversations, feel that you had gotten a definitive answer to Mr. Girth's question about Mrs. Clinton's meeting with Mr. McDugal to discuss the preferred stock deal?

A All I remember about this is getting the inquiry, getting what I could as far as a context, and then, I don't know if I returned the call to Girth, or Bruce Lindsey did, or Betsy Wright did. I don't know what then happened.

So I get scores of press inquiries every day, and I just could not tell you sitting here now

1 who called Jeff Girth back.

Q Did you in your own mind have a definitive answer to that question in the fall of 1993, whether there was a meeting between Mrs. Clinton and Mr. McDugal?

A Again, I was not a person within the White House who was a spokesperson on these kinds of matters. What I was doing here was just trying to get a context.

I do not think that, you know, beyond that, as I say, I don't know if I called Jeff Girth back or someone else did to talk to him more at length.

I would be inclined to think someone else probably did because I just didn't know anything about this.

Q Well as we sit here today, what is the extent of your knowledge about whether Mrs. Clinton met with Mr. McDugal to discuss the preferred stock deal?

A What I know is what is indicated in these notes, more or less, and also what Mrs. Clinton said

29 1 in her press conference in April of 1994. 2 And other than that you have no other 3 knowledge? 4 Α No. 5 The second question, did Mrs. Clinton discuss retiring the campaign debt with 6 7 Mr. McDugal? 8 As we sit here today, did you ever receive 9 an answer to that question? 10 A I think that is the Betsy Wright answer. 11 Q That is, that Mrs. Clinton was not 12 involved in the fund raiser? 13 Α Correct. 14 0 Did you ever receive any information that 15 was inconsistent with that? 16 A No 17 Did you ever discuss that with Mrs. 0 18 Clinton? 19 Not that I remember. Α 20 How about when you were preparing Mrs. 21 Clinton for her April press conference? Did you 22 discuss that? 30 1 I don't remember it specifically coming up 2 then. It may have. Sitting here I have no memory of it specifically coming up. 3 4 As we sit here today, what is the extent 5 of your knowledge about work that the Rose Law Firm 6 did for Madison Guaranty? 7 The extent of my knowledge is that it was 8 minimal work that a young associate did. 9 O Other than the preferred stock offering 10 that is discussed in these notes, or discussing this 11 question from Jeff Girth, are you aware of any other 12 work that the Rose Law Firm did for Madison Guaranty? 13 A No. Q Did you ever discuss that with Mrs. 14 15 Clinton? 16 Her --A 17 0 The work that she did for Madison.

I remember it coming up in preparation for

This would be the press conference of

her press conference in April of 1994.

April 23, 1994? 22 A Yes.

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19 20

		31
1	Q The White House has produced a document	
2	which is a transcript of that press conference. It	
3	is Bates No. S012453 to S012478.	
4	And I am correct that you helped prepare	
5	Mrs. Clinton for this press conference?	
6	A Yes.	
7	Q Who else helped prepare Mrs. Clinton for	
8	this press conference?	
9	A David Kendall, Maggie Williams, Anne	
10	Lewis, Mandy Grimwald.	
11	Q Who is Anne Lewis?	
12	A Anne Lewis is, at present I believe,	
13	Deputy Campaign Manager for Clinton-Gore '96.	
14	Q And who is Mandy Grimwald?	
15	A She is a consultant who has her own	
16	business in Washington.	
17	I should also mention that Lloyd Cutler	
18	was present, as well.	
19	Q Did you take any notes during that prep	
20	session?	
21	A I prepared a briefing book. There was	
22	more than one session.	
		32
1	Q How many sessions?	32
2	A I don't remember.	32
2 3	A I don't remember. Q Do you still have a copy of this briefing	32
2 3 4	A I don't remember. Q Do you still have a copy of this briefing book?	32
2 3 4 5	A I don't remember. Q Do you still have a copy of this briefing book? A Yes.	32
2 3 4 5 6	A I don't remember. Q Do you still have a copy of this briefing book? A Yes. Q Do you know whether it was produced to the	32
2 3 4 5 6 7	A I don't remember. Q Do you still have a copy of this briefing book? A Yes. Q Do you know whether it was produced to the Committee?	32
2 3 4 5 6 7 8	A I don't remember. Q Do you still have a copy of this briefing book? A Yes. Q Do you know whether it was produced to the Committee? A I produced it to my lawyers.	32
2 3 4 5 6 7 8 9	A I don't remember. Q Do you still have a copy of this briefing book? A Yes. Q Do you know whether it was produced to the Committee? A I produced it to my lawyers. MS. FISHER: Can we go off the record for	32
2 3 4 5 6 7 8 9	A I don't remember. Q Do you still have a copy of this briefing book? A Yes. Q Do you know whether it was produced to the Committee? A I produced it to my lawyers. MS. FISHER: Can we go off the record for a second?	32
2 3 4 5 6 7 8 9 10	A I don't remember. Q Do you still have a copy of this briefing book? A Yes. Q Do you know whether it was produced to the Committee? A I produced it to my lawyers. MS. FISHER: Can we go off the record for a second? (Discussion off the record.)	32
2 3 4 5 6 7 8 9 10 11 12	A I don't remember. Q Do you still have a copy of this briefing book? A Yes. Q Do you know whether it was produced to the Committee? A I produced it to my lawyers. MS. FISHER: Can we go off the record for a second? (Discussion off the record.) MS. FISHER: On the record.	32
2 3 4 5 6 7 8 9 10 11 12 13	A I don't remember. Q Do you still have a copy of this briefing book? A Yes. Q Do you know whether it was produced to the Committee? A I produced it to my lawyers. MS. FISHER: Can we go off the record for a second? (Discussion off the record.) MS. FISHER: On the record. BY MS. FISHER: (Resuming)	32
2 3 4 5 6 7 8 9 10 11 12 13 14	A I don't remember. Q Do you still have a copy of this briefing book? A Yes. Q Do you know whether it was produced to the Committee? A I produced it to my lawyers. MS. FISHER: Can we go off the record for a second? (Discussion off the record.) MS. FISHER: On the record. BY MS. FISHER: (Resuming) Q Do you recall discussing at the prep	32
2 3 4 5 6 7 8 9 10 11 12 13 14 15	A I don't remember. Q Do you still have a copy of this briefing book? A Yes. Q Do you know whether it was produced to the Committee? A I produced it to my lawyers. MS. FISHER: Can we go off the record for a second? (Discussion off the record.) MS. FISHER: On the record. BY MS. FISHER: (Resuming) Q Do you recall discussing at the prep sessions for the April 22, 1994, press conference	32
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2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17	A I don't remember. Q Do you still have a copy of this briefing book? A Yes. Q Do you know whether it was produced to the Committee? A I produced it to my lawyers. MS. FISHER: Can we go off the record for a second? (Discussion off the record.) MS. FISHER: On the record. BY MS. FISHER: (Resuming) Q Do you recall discussing at the prep sessions for the April 22, 1994, press conference matters related to the Rose Law Firm and Madison Guaranty?	32
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18	A I don't remember. Q Do you still have a copy of this briefing book? A Yes. Q Do you know whether it was produced to the Committee? A I produced it to my lawyers. MS. FISHER: Can we go off the record for a second? (Discussion off the record.) MS. FISHER: On the record. BY MS. FISHER: (Resuming) Q Do you recall discussing at the prep sessions for the April 22, 1994, press conference matters related to the Rose Law Firm and Madison Guaranty? A Yes.	32
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33 1 the Rose Law Firm's representation of Madison. 2 What is your independent recollection of 3 what was said at the meeting? 4 Just that a young associate in the firm 5 wanted to help, or had a friend at Madison and they 6 wanted to obtain a legal opinion about something 7 pertaining to preferred stock; and, that Mrs. Clinton 8 who was a partner just kind of signed the letters for 9 the associate because that was the practice in the 10 firm, and that there was minimal work done. 11 Did Mrs. Clinton state at that briefing 12 session whether she had had conferences with Members 13 of the Bank? 14 A No. 15 Did she say that she had not? 16 Α I never heard her say anything about 17 conferences. 18 Did Mrs. Clinton say whether she had any 19 conferences, or meetings, or telephone conversations 20 with members of the Arkansas Securities Commission 21 relating to the preferred stock deal? 22 Α No. 34 1 Did she says that she did not? 0 2 She never said anything about it. Α 3 0 Did Mrs. Clinton state at the briefing 4 sessions who brought in Madison as a client to the 5 Rose Law Firm? 6 Again, I only remember her talking about some "young associate" in her firm. 7 8 Q Did she state whether he was the one that 9 brought the client in? 10 That's my vague memory of it, yeah. 11 And to the best of your recollection, she didn't state that she had done other work for Madison 12 13 Guaranty while at the Rose Law Firm? 14 Not that I remember. 15 And you were present at her press 16 conference? 17 Is that correct? Yes. 18 Α 19 And at her press conference she was asked 20 some questions about Madison. 21 Do you recall that? 22 Vaguely.

35 And you remember the answers that she 1 gave, not independently, but you remember listening 2 to the answers that she gave at the press conference 3 4 related to Madison? 5 I remember sitting there listening to the 6 O and A. 7 Do you recall thinking that there was 8 anything that she had stated relating to these matters that was inconsistent with what you had 9 10 learned in your prep sessions? 11 12 Do you recall her saying that the young attorney and the young bank officer did all the work 13 14 on the deal? Yes, I do. 15 Α 16 MR. KRAVITZ: What are you referring to? 17 MS. FISHER: I am referring to 12467, in response to a question relating to Madison. I can 18 let you look at it. I didn't want to have to read 19 20 through the whole thing. 21 THE WITNESS: That's all right. 22 MS. FISHER: If you're familiar with it. 36 BY MS. FISHER: (Resuming) 1 2 So at the time you head her say that the young bank officer and a young associate did all the 3 4 work, do you recall -- I guess, according to your 5 previous testimony, you did not believe that that was inconsistent with anything you had learned prior to 6 7 that time? 8 That's correct. 9 It was consistent with what I had heard 10 her say in the past.

11 Do you recall ever learning any 12 information relating to the amount of time Mrs.

13 Clinton billed to Madison while at the Rose Law

14 Firm?

15

Α I have some vague recollection of Mrs. Clinton saying it was "minimal work." The specific

16 amount of time, I have some memory of David Kendall 17

indicating, you know, it was minimal work; minimal 18

time; minimal time spent, sorry. Minimal time 19

20 spent.

21 Do you have any idea of what exactly that 22 meant, "minimal time"? --

		37
1	A No, I	
2	Q in relation to what "minimal" means?	
3	Do you have a general idea of what that	
4	would mean?	
5	A No.	
6	MR. TAYLOR: You're satisfied that it	
7	would be different from "maximum"?	
8	(Laughter.)	
9	THE WITNESS: Literally? Yes.	
10	BY MS. FISHER: (Resuming)	
11	Q In relation to do you recall knowing how	
12	many months, for example, this matter had been worked	
13	on by the Rose Law Firm?	
14	A No. If I can maybe clarify for you	
15	Q I would love that.	
16	A to me what was indicated to me was it	
17	was so small that it was like not even on anybody's	
18	radar screen.	
19	It was minimal.	
20	(Pause.)	
21	Q On 02394, which are notes of your	
22	conversation with Betsy Wright, it indicates,	
	conversation with Betsy wright, it materies,	
		38
1	in quotes that "there was no connection between	38
1 2	in quotes, that "there was no connection between	38
2	the"?	38
2	the"? A "the work done from Madison Guaranty by	38
2 3 4	the"? A "the work done from Madison Guaranty by the Rose Law Firm and the Clinton Campaign."	38
2 3 4 5	the"? A "the work done from Madison Guaranty by the Rose Law Firm and the Clinton Campaign." Q At any time following your conversation	38
2 3 4 5 6	the"? A "the work done from Madison Guaranty by the Rose Law Firm and the Clinton Campaign." Q At any time following your conversation with Ms. Wright, did you learn anything that was	38
2 3 4 5 6 7	the"? A "the work done from Madison Guaranty by the Rose Law Firm and the Clinton Campaign." Q At any time following your conversation with Ms. Wright, did you learn anything that was inconsistent with that statement?	38
2 3 4 5 6 7 8	the"? A "the work done from Madison Guaranty by the Rose Law Firm and the Clinton Campaign." Q At any time following your conversation with Ms. Wright, did you learn anything that was inconsistent with that statement? A No.	38
2 3 4 5 6 7 8 9	the"? A "the work done from Madison Guaranty by the Rose Law Firm and the Clinton Campaign." Q At any time following your conversation with Ms. Wright, did you learn anything that was inconsistent with that statement? A No. Q The White House also produced a document,	38
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2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18	the"? A "the work done from Madison Guaranty by the Rose Law Firm and the Clinton Campaign." Q At any time following your conversation with Ms. Wright, did you learn anything that was inconsistent with that statement? A No. Q The White House also produced a document, S012395, to S012419, and I'm not positive it is the same document, but it all relates to conflict of interest matters in the Rose Law Firm. MR. KRAVITZ: Could you say those numbers again? MS. FISHER: It is 12395 to 12419. MR. KRAVITZ: Thanks. BY MS. FISHER: (Resuming) Q The first document is a memo from Neal	38
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19	the"? A "the work done from Madison Guaranty by the Rose Law Firm and the Clinton Campaign." Q At any time following your conversation with Ms. Wright, did you learn anything that was inconsistent with that statement? A No. Q The White House also produced a document, S012395, to S012419, and I'm not positive it is the same document, but it all relates to conflict of interest matters in the Rose Law Firm. MR. KRAVITZ: Could you say those numbers again? MS. FISHER: It is 12395 to 12419. MR. KRAVITZ: Thanks. BY MS. FISHER: (Resuming) Q The first document is a memo from Neal Egelston to Harold Ickes dated February 28th, 1994.	38
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20	the"? A "the work done from Madison Guaranty by the Rose Law Firm and the Clinton Campaign." Q At any time following your conversation with Ms. Wright, did you learn anything that was inconsistent with that statement? A No. Q The White House also produced a document, S012395, to S012419, and I'm not positive it is the same document, but it all relates to conflict of interest matters in the Rose Law Firm. MR. KRAVITZ: Could you say those numbers again? MS. FISHER: It is 12395 to 12419. MR. KRAVITZ: Thanks. BY MS. FISHER: (Resuming) Q The first document is a memo from Neal Egelston to Harold Ickes dated February 28th, 1994. Would those be your initials in the corner?	38
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19	the"? A "the work done from Madison Guaranty by the Rose Law Firm and the Clinton Campaign." Q At any time following your conversation with Ms. Wright, did you learn anything that was inconsistent with that statement? A No. Q The White House also produced a document, S012395, to S012419, and I'm not positive it is the same document, but it all relates to conflict of interest matters in the Rose Law Firm. MR. KRAVITZ: Could you say those numbers again? MS. FISHER: It is 12395 to 12419. MR. KRAVITZ: Thanks. BY MS. FISHER: (Resuming) Q The first document is a memo from Neal Egelston to Harold Ickes dated February 28th, 1994.	38

Do you recall any of the circumstances

Did you have any involvement in attempting

1

2

3

4

5

A No.

0

surrounding these matters?

No.

39

6 to answer press inquiries relating to the Rose Law 7 Firm conflict of interest? 8 No. I really didn't. Α 9 The White House has also produced another 0 document, S012420, dated 10/4/93. 10 11 Are these your notes? 12 Yes. My notes are surrounding the Α 13 middle. 14 0 Okay. 15 Α These are me -- This (indicating) is me. 16 0 Okay. Is the middle a message? 17 The middle is a message that was given Α 18 to me. 19 0 Who is Loretta Lynch? 20 Α I don't really know. 21 Do you recall speaking to Ms. Lynch? 0 22 Α No, I don't. 40 1 On the top it says "Bruce Lindsey". 0 2 Do you recall why his name is on the top 3 of your notes? 4 Again, I don't have -- I can reconstruct if 5 I want to speculate. I don't have a clear picture, 6 but this, as best I can remember, indicates a 7 conversation I had with Bruce Lindsey in October of 8 93. 9 O Do you recall how this conversation came 10 about, or what prompted it? Again, as best I can remember, I know that 11 12 there were press inquiries at that time about 13 Whitewater Development. And so --Do you recall what the press inquiries 14 15 pertained to, specifically? 16 Α No. 17 Do you recall whether this was the first conversation you had with Mr. Lindsey regarding 18 19 Whitewater-related press inquiries? 20 It may have been. A 21 Again, I can't be sure. I may have had another -- because I get a 22

lot of press inquiries -- I would say it might be
better said it was probably one of the first, if not
the first, but I can't be sure. I just don't
remember.

Q Generally in this time frame when you received an inquiry relating to Whitewater, or Madison, or some Arkansas-related issue, would you first go to Mr. Lindsey to discuss the inquiry? Or would you first go to Mrs. Clinton?

A I would usually just call Bruce Lindsey.

Q Okay. Generally you would just call Bruce Lindsey, meaning you would call Bruce Lindsey and not call Mrs. Clinton? Or --

A Again, I was not someone from a "press secretary" standpoint in the White House who dealt with press inquiries pertaining to Whitewater.

So when I would get them, I would try and get a context so that I would not be blindsided when the calls came in, and then usually refer then to Bruce.

Q Did you ever discuss these matters, any Whitewater-Madison related matters, with Mrs. Clinton

in the Fall of 1993?

1 2

A I have no specific, you know, memory. I may have had, you know, asked her a question to track down a fact, but I can't point to any kind of, you know, independent conversation I would have had.

Q Under the notes right here it says "HRC," so this would not reflect a conversation that you had with Mrs. Clinton? Or?

A I believe this reflects a conversation with Bruce Lindsey that I had where he's walking me through reporters' angles of stories about Whitewater at this time, and he was educating me on sort of what was going on.

Q Why then does it say "HRC," then?

A Again I think that this -- to me, it reflects Bruce Lindsey saying to me this is what Mrs. Clinton --

Q Has said?

A -- thinks, or, I don't know.

Q So generally it would be Mr. Lindsey who would speak to Mrs. Clinton about these matters?

A I don't know that there's a general

practice. All I can say is on this, this would --1 2 looking at this, and I don't really remember this conversation, per se, but this indicates to me Bruce 3 is educating me about the different pieces of this: 4 5 and that this is what Mrs. Clinton thinks.

Then he goes on and explains that this is where the reporter is going.

Okay. Would you just read them for me?

Α "HRC. We sold Whitewater interests we had last year. Part of sales agreement, we agreed to give them records, VF knew, copies of records.

And the "VF" is?

13 Vince Foster. Α

O Vince Foster. And can you explain to me 14 what that means, or at the time what you recollect 15

16 that meaning?

6 7

8

9

10

11 12

17 I mean, looking at it it just means to me 18 that the Clintons sold the Whitewater interests they had. And as part of the sales agreement, they agreed 19 to give them -- whoever "them" is -- the records. And 20 Vince Foster knew, and there were copies of the 21

22 records.

9

12

44

Is that that Mr. Foster had copies of the 1 2 records?

3 I don't -- these are just notes. It's not 4 something I remember vividly at all. It's just not.

5 I'm just looking at the notes and trying to give you 6 my best semblance of it.

7 Which is all you can do, and I appreciate 8 that.

I am sorry, I just can't --A

You're going to remember more than anyone 10 11 else, since you took the notes.

Could you go on?

13 Then it goes down: "Not indicted. Self-14 medicated on Prozac. Lost \$70,000 'cause stupid, and pumped money into this thing because McDugal 15 friend of Bill's." 16

Could you give me any context to 17 Q 18 that?

19 I think it -- I mean, again I think that 20 this pertains to Bruce relaying to me what Mrs.

21 Clinton may have said or may have indicated to him

22 that "not indicted" and "self medicated on Prozac.

		45
1	they lost \$70,000" I'm assuming in a land deal	
2	because they were stupid and pumped money into the	
3	thing because McDugal was a friend of the	
4	President's.	
5	Q What does "not indicted" refer to?	
6	A I I don't really I don't I mean I don't	
7	really know.	
8	Q Does that refer to Mr. McDugal?	
9	A It could be, but I don't again, I don't	
10	it could be.	
11	Q Do you recall at the time being told that	
12	the Clintons lost \$70,000 in Whitewater?	
13	A I don't remember when I heard that they	
14	lost \$70,000 in the land deal. I don't know if this	
15	was the first time. I mean, I do remember hearing	
16	that.	
17	Q Do you recall hearing that during the	
18	campaign?	
19	A No.	
20	I didn't even hear about Whitewater really	
21	at all during the campaign.	
22	Q Do you recall learning about a Lyons'	
22	Q Do you recan learning about a Lyons	
		46
1.	report that was done?	46
1 2	report that was done?	46
2	A Yeah.	46
2 3	A Yeah. Q Which outlined the Clintons' investment in	46
2 3 4	A Yeah. Q Which outlined the Clintons' investment in Whitewater?	46
2 3 4 5	A Yeah. Q Which outlined the Clintons' investment in Whitewater? A Yes.	46
2 3 4 5 6	A Yeah. Q Which outlined the Clintons' investment in Whitewater? A Yes. Q And do you recall that there were later	46
2 3 4 5 6 7	A Yeah. Q Which outlined the Clintons' investment in Whitewater? A Yes. Q And do you recall that there were later allegations that the Lyons' report was incorrect;	46
2 3 4 5 6 7 8	A Yeah. Q Which outlined the Clintons' investment in Whitewater? A Yes. Q And do you recall that there were later allegations that the Lyons' report was incorrect; that it overstated the Clintons' investment in	46
2 3 4 5 6 7 8 9	A Yeah. Q Which outlined the Clintons' investment in Whitewater? A Yes. Q And do you recall that there were later allegations that the Lyons' report was incorrect; that it overstated the Clintons' investment in Whitewater?	46
2 3 4 5 6 7 8 9	A Yeah. Q Which outlined the Clintons' investment in Whitewater? A Yes. Q And do you recall that there were later allegations that the Lyons' report was incorrect; that it overstated the Clintons' investment in Whitewater? A I remember reading about it in the paper,	46
2 3 4 5 6 7 8 9 10 11	A Yeah. Q Which outlined the Clintons' investment in Whitewater? A Yes. Q And do you recall that there were later allegations that the Lyons' report was incorrect; that it overstated the Clintons' investment in Whitewater? A I remember reading about it in the paper, but	46
2 3 4 5 6 7 8 9 10 11 12	A Yeah. Q Which outlined the Clintons' investment in Whitewater? A Yes. Q And do you recall that there were later allegations that the Lyons' report was incorrect; that it overstated the Clintons' investment in Whitewater? A I remember reading about it in the paper, but Q but not having any discussions about it	46
2 3 4 5 6 7 8 9 10 11 12 13	A Yeah. Q Which outlined the Clintons' investment in Whitewater? A Yes. Q And do you recall that there were later allegations that the Lyons' report was incorrect; that it overstated the Clintons' investment in Whitewater? A I remember reading about it in the paper, but Q but not having any discussions about it with anyone?	46
2 3 4 5 6 7 8 9 10 11 12 13	A Yeah. Q Which outlined the Clintons' investment in Whitewater? A Yes. Q And do you recall that there were later allegations that the Lyons' report was incorrect; that it overstated the Clintons' investment in Whitewater? A I remember reading about it in the paper, but Q but not having any discussions about it with anyone? A No.	46
2 3 4 5 6 7 8 9 10 11 12 13 14	A Yeah. Q Which outlined the Clintons' investment in Whitewater? A Yes. Q And do you recall that there were later allegations that the Lyons' report was incorrect; that it overstated the Clintons' investment in Whitewater? A I remember reading about it in the paper, but Q but not having any discussions about it with anyone? A No. Q Okay. Could you where do the notes go	46
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16	A Yeah. Q Which outlined the Clintons' investment in Whitewater? A Yes. Q And do you recall that there were later allegations that the Lyons' report was incorrect; that it overstated the Clintons' investment in Whitewater? A I remember reading about it in the paper, but Q but not having any discussions about it with anyone? A No. Q Okay. Could you where do the notes go from there?	46
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17	A Yeah. Q Which outlined the Clintons' investment in Whitewater? A Yes. Q And do you recall that there were later allegations that the Lyons' report was incorrect; that it overstated the Clintons' investment in Whitewater? A I remember reading about it in the paper, but Q but not having any discussions about it with anyone? A No. Q Okay. Could you where do the notes go from there? A Then they go to Mike Isakoff and I this	46
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18	A Yeah. Q Which outlined the Clintons' investment in Whitewater? A Yes. Q And do you recall that there were later allegations that the Lyons' report was incorrect; that it overstated the Clintons' investment in Whitewater? A I remember reading about it in the paper, but Q but not having any discussions about it with anyone? A No. Q Okay. Could you where do the notes go from there? A Then they go to Mike Isakoff and I this is Bruce talking to me about Mike Isakoff who was a	46
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19	A Yeah. Q Which outlined the Clintons' investment in Whitewater? A Yes. Q And do you recall that there were later allegations that the Lyons' report was incorrect; that it overstated the Clintons' investment in Whitewater? A I remember reading about it in the paper, but Q but not having any discussions about it with anyone? A No. Q Okay. Could you where do the notes go from there? A Then they go to Mike Isakoff and I this is Bruce talking to me about Mike Isakoff who was a reporter for The Washington Post.	46
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20	A Yeah. Q Which outlined the Clintons' investment in Whitewater? A Yes. Q And do you recall that there were later allegations that the Lyons' report was incorrect; that it overstated the Clintons' investment in Whitewater? A I remember reading about it in the paper, but Q but not having any discussions about it with anyone? A No. Q Okay. Could you where do the notes go from there? A Then they go to Mike Isakoff and I this is Bruce talking to me about Mike Isakoff who was a reporter for The Washington Post. He is then indicating to me what Mike	46
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19	A Yeah. Q Which outlined the Clintons' investment in Whitewater? A Yes. Q And do you recall that there were later allegations that the Lyons' report was incorrect; that it overstated the Clintons' investment in Whitewater? A I remember reading about it in the paper, but Q but not having any discussions about it with anyone? A No. Q Okay. Could you where do the notes go from there? A Then they go to Mike Isakoff and I this is Bruce talking to me about Mike Isakoff who was a reporter for The Washington Post.	46

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47 "Jim Lyons, John Tisdale checking out facts; check 1 2 records. Hale got them looking again. Telephone call or two back to D.C. in July. Tipoff to FDA 3 4 investigation link --" If I could stop you there, "Hale" refers 5 6 to David Hale? 7 Α I guess so, yeah. Do you recall learning anything about this 8 "telephone call or two back to D.C. in July"? Was 9 that a call from David Hale to D.C.? 10 I -- the way I -- again, I mean I think this 11 is -- Bruce is telling me what Mike Isakoff is doing. 12 And the way I interpret it is that either Mike 13 Isakoff indicated to Bruce that -- I don't know the 14 "telephone call or two back to D.C. in July": I don't 15 know what that specifically means, other than it's in 16 the context of Mike Isakoff working on a story. 17 Did you ever learn about any calls that 18 19 David Hale had made back to D.C. in July or any other time that summer of '93? 20 21 Α No. 22 Q Or anyone on his behalf? 48 1 No Α 2 Did you ever learn of any contacts that 3 David Hale or anybody on his staff had made to anyone at the White House in 1993? 4 5 Α No 6 0 Okav. 7 Then it goes: "Knows Jim Lyons" --Α 8 So we're going over to the left-hand 0 9 margin? 10 Yeah. Let me think. 11 "Knows Jim Lyons talked to Vince Foster the night before he died. Either Lisa Foster or Park 12 13 Police records. Coverup related to Foster suicide." Do you recall learning that Jim Lyons 14 spoke to Mr. Foster, as it says, the day before he 15 16 died? 17 Yes. I don't think I knew anything about that 18 until I read it in the paper. I think it was in the 19 20 paper.

But you recalled that Mr. Lindsey was

telling you that this was the story that the

21

556 49 1 reporters were filing? 2 A Correct. 3 Did you at that time ask any questions about Mr. Lindsey's knowledge about that 4 5 thought? 6 Α No. 7 "RTC claims versus marketing McDugal. 8 McDugal doing things we didn't know. Angle in 9 campaign was Clinton involved in S&L scandal. 10 Now --11 Q That's okay. Going back to "McDugal doing things we didn't know," do you recall what that 12 13 refers to? 14 A I don't. 15 Could you provide any context for that at 16 all? 17 Α No. 18 Is that Mr. Lindsey telling you that 0 19 McDugal is talking to the press, perhaps? I -- again I -- it's just Lindsey telling me 20 21 this in the context of Mike Isakoff. Again, I have 22 no picture, really, at all of this in my mind. 50 1 Do recall learning that Mr. Lindsey had a 2 concern about Mr. McDugal talking to the press? 3 Not that he ever indicated to me. "Now angle is what did Clintons have to do 4 5 with David Hale, and what was Vince Foster doing to 6 shut it down in the White House?" 7 Do you recall ever learning anything 8 about the relationship between the Clintons and David

9 Hale? 10 Α No. 11 Do you recall ever learning whether Mr. Foster was looking into the relationship between the 12 13 Clintons and David Hale? 14 No. 15 Q Okav. Then what is below the squiggly line here 16 17 "pertains to a separate conversation". (Indicating) 18 That one. 19 This one? 0 20 A Um-hmmm. 21 0 And that is S012421. 22 Is that a conversation with Mr. Lyons?

```
1
        Α
             Yes
 2
        0
             Do you recall whether it is on the same
 3
    day, 10/4/93?
 4
             I believe it was.
 5
            MR. KRAVITZ: I think we skipped something
 6
    on the right there.
 7
            MR. TAYLOR: Yes.
            MR. KRAVITZ: A "smoking gun," no doubt.
 8
9
            MS. FISHER: What did I -- I just read that.
10
            MR. KRAVITZ: Oh. vou did?
11
            THE WITNESS: Where?
12
            MS. FISHER: Now the angle is.
13
            MR. KRAVITZ: I am fading out here. Sorry
14
    about that.
15
            BY MS. FISHER: (Resuming)
             Going back to the conversation with Bruce
16
17
    Lindsey, could you read that again? "RTC" --
18
             "...Claims versus marketing/McDugal."
             What is "marketing"?
19
        0
20
             I have no idea. I don't know.
        Α
21
             Can you put this phrase right here, "RTC
    claims versus marketing/McDugal" into any context
22
                                                            52
    whatsoever for me?
 1
 2
        A
             No.
 3
             So do you believe that -- getting back to
 4
    the Lyons' conversation to you, you recalled that it
    was on 10/4/93 when you had this conversation with
 5
 6
    the Jim Lyons?
 7
             I think it may have been.
 8
            I can't be absolutely positive.
 9
        Q
             Okav.
10
            It may have been.
        Α
11
            Do you want me to --
12
             Yes. Does it start on this page
13
    (indicating), or this page(indicating).
14
        Α
             Yes, it starts here (indicating).
15
             It starts on 421.
        0
16
             "Both Girth and Isakoff are on it from
    different perspectives. Girth, a few weeks ago, went
17
18
    to Arkansas for three days and interviewed Hale.
19
    Hale indicted, and was a municipal court judge.
    Claims McDugal and Clinton encouraged and solicited
20
21
    loans from Capital Services Management to benefit
    Clinton and Tucker. Capital Services was misused by
22
```

1 Hale. Check from Capital Services to Susan McDugal. 2 \$300,000 in 1985, to Susan McDugal in her personal 3 account."

Do you recall Mr. Lyons telling you where he was getting this information?

This was a conversation I had with Jim Lyons, and he was telling me in the context that he had talked to Jeff Girth and Michael Isakoff, both of whom are reporters for The New York Times and The Washington Post, and I interpreted this to be the stories they were working on.

Did Mr. Lyons provide you at this time with any of his own independent knowledge?

Not that I know of.

4

5

6 7

8

9

10

11

12 13

14

15

16

17

18

19

20

21

14

15

16

17

18

Did you ask him any questions about whether these stories were true or accurate, at that time?

A Not that I remember. I just just getting briefed on what the reporters were doing.

"Bruce met with Girth. He and Lyons got with the records. No evidence that Capital Service 22 ever did business with Whitewater or Clintons. Last

54

1 week Isakoff called Lyons. Lyons called to get

2 information and talked to him today. Isakoff,

- 3 different spin than Girth. Girth has records of S&L
- 4 owned by McDugal, reports of examination of bank
- 5 before it failed in 1988. Isakoff has sources in RTC
- 6 who can link Susan McDugal to Whitewater. Loan made
- 7 from Madison Marketing to Whitewater that was repaid.
- 8 Clintons had nothing to do with it. Isakoff says
- 9 Whitewater with McDugal's signature brought 810 acres
- 10 in Polaski County from International Paper. Paid
- \$550,000, of which 80 percent mortgaged. A \$30,000 11
- 12 loan made to Whitewater from International Paper.
- 13 Public records, 1986.

"Two months later, land is sold. Mortgage assumed and transferred to Great Southern Land Company, an affiliate of McDugal. Isakoff in July 1992, FBI search warrant of David Hale and Capital Services. Date was July 20th, day of Vince's

- 19 suicide. Bruce wrote it off with Girth. Isakoff
- 20 thinks Vince Foster was trying -- was getting tax forms
- 21 for Whitewater finished and that confluence of those
- 22 events raises question as to whether White House --"

```
White House -- I can't read my writing --
 1
            MR. TAYLOR: "Knew."
2
3
            THE WITNESS: Oh, that's it. "...knew of
4
    investigation of Whitewater."
5
            BY MS. FISHER: (Resuming)
6
             Do you recall at this conversation with
7
    Mr. Lyons whether Mr. Lyons informed you that certain
    aspects of either Mr. Girth's or Mr. Isakoff's, I
 8
    guess angle, as you called it, were inaccurate?
9
             Again, I mean when he indicates here Bruce
10
    wrote it off with Girth, that told me that Jeff Girth
11
12
    was wrong.
             Okay. What about over here when Mr. Lyons
13
    was informing you about the reports regarding Madison
14
    and the loan to Susan McDugal.
15
            Did he provide any context for that
16
17
    information?
             No. Again, he was relaying what the
18
19
    reporters were doing. I think here the line
    "Clintons had nothing to do with it" --
20
             That was from Mr. Lyons?
21
22
        Α
             Yeah.
                                                             56
             So when Mr. Lyons had independent
 1
 2
    knowledge that what the reporters were looking at was
    inaccurate, you would write it down? "The Clintons
 3
    had nothing to do with it," for example?
 4
 5
             I don't know if he -- again, I can't
    remember the specific -- to me, that is what it says.
 6
    But I don't know if that is his own independent
 7
    judgment or a statement from somewhere else. I don't
 8
 9
    know.
             Do you recall following up on any of these
10
        0
11
    matters?
12
            MR. TAYLOR: Could I just interject here?
            Is your question intended to ask her
13
    whether every time Mr. Lyons said something to the
14
15
    effect that the reporter had it wrong, She wrote it
16
    down?
17
             MS. FISHER: Well, I was --
18
             MR. TAYLOR: -- thereby leaving the --
             MS. FISHER: -- trying to say generally --
19
20
             MR. TAYLOR: -- impression that if she
     didn't write anything down about him, he didn't
21
22
     correct it?
```

57 MS. FISHER: I didn't mean to leave that 1 2 impression. I was asking generally when he told you 3 that it was inaccurate, you wrote it down. 4 As, for example, you did when it said 5 "Clintons had nothing to do with it." 6 BY MS. FISHER: (Resuming) 7 Would you have written down the 8 information that he was giving you? 9 I was getting briefed here on what the 10 reporters were doing, and I didn't know anything 11 about any of this. So I just wrote. 12 You just wrote everything that he said, 13 for example? 14 I was just writing stuff down. 15 0 Okay. 16 Do you believe that in general you were 17 writing down everything that he was saying? I can't write that fast. 18 19 I just wrote down what I could to try and give myself a context of what was going on with the 20 21 press. 22 Did you speak to anyone else to follow 0 58 1 up on any of these matters at that time, October of 2 93? 3 Not that I can recall. A 4 Did you speak to Mrs. Clinton about any of 5 these matters? 6 Not that I -- not that I remember 7 specifically. 8 Did you speak to Maggie Williams about any 9 of these matters? 10 Α Not that I remember, no. Did you speak to anyone at the White House 11 regarding David Hale in the fall of 1993? 12 13 No. 14 Did you speak to anyone in the White House 15 about Jim or Susan McDugal in, I want to say the 16 fall, but really what I am getting at is maybe September through December of 1993. 17 18 No. Α Generally did you attempt to contact other 19

that Master Lyons, and Mrs. Wright, was there anyone

else outside of the White House that you would

contact to follow up on these type of factual

20 21

		59
1	matters, or these type of inquiries?	
2	MR. KRAVITZ: When you say "these type,"	
3	do you mean Arkansas-related	
4	MS. FISHER: I mean Madison, Whitewater,	
5	Arkansas related matters.	
6	THE WITNESS: I don't think so, no.	
7	BY MS. FISHER: (Resuming)	
8	Q For example, is there anyone in Arkansas	
9	that you ever contacted regarding any of these	
10	matters?	
11	A Not that I have any memory of, no.	
12	Q If there was someone at the White House	
13	that was going to perform some type of factual	
14	research to look into these matters, who would that	
15	have been, to your knowledge?	
16	A I don't know.	
17	Q Looking at 012422 and 012423, it appears	
18	that they go together although I am not positive.	
19	A Yes.	
20	Q Are those your notes?	
21	A Yes.	
22	Q Could you describe the circumstances?	
		60
1	A They're on a "POST-IT" that was attached	60
1 2	A They're on a "POST-IT" that was attached to this, like stuck onto that.	60
	· · · · · · · · · · · · · · · · · · ·	60
2	to this, like stuck onto that.	60
2	to this, like stuck onto that. Q So it is probably dated around the same	60
2 3 4	to this, like stuck onto that. Q So it is probably dated around the same time of 10/4/93?	60
2 3 4 5	to this, like stuck onto that. Q So it is probably dated around the same time of 10/4/93? A There is no date on this. I guess.	60
2 3 4 5 6	to this, like stuck onto that. Q So it is probably dated around the same time of 10/4/93? A There is no date on this. I guess. Q Okay.	60
2 3 4 5 6 7	to this, like stuck onto that. Q So it is probably dated around the same time of 10/4/93? A There is no date on this. I guess. Q Okay. A Do you want me to read it, or	60
2 3 4 5 6 7 8	to this, like stuck onto that. Q So it is probably dated around the same time of 10/4/93? A There is no date on this. I guess. Q Okay. A Do you want me to read it, or Q Do you recall, or do you have any	60
2 3 4 5 6 7 8 9	to this, like stuck onto that. Q So it is probably dated around the same time of 10/4/93? A There is no date on this. I guess. Q Okay. A Do you want me to read it, or Q Do you recall, or do you have any independent recollection, of taking these notes or of	60
2 3 4 5 6 7 8 9	to this, like stuck onto that. Q So it is probably dated around the same time of 10/4/93? A There is no date on this. I guess. Q Okay. A Do you want me to read it, or Q Do you recall, or do you have any independent recollection, of taking these notes or of the circumstances surrounding it?	60
2 3 4 5 6 7 8 9 10 11	to this, like stuck onto that. Q So it is probably dated around the same time of 10/4/93? A There is no date on this. I guess. Q Okay. A Do you want me to read it, or Q Do you recall, or do you have any independent recollection, of taking these notes or of the circumstances surrounding it? A No.	60
2 3 4 5 6 7 8 9 10 11 12	to this, like stuck onto that. Q So it is probably dated around the same time of 10/4/93? A There is no date on this. I guess. Q Okay. A Do you want me to read it, or Q Do you recall, or do you have any independent recollection, of taking these notes or of the circumstances surrounding it? A No. Q Do you recall whether it may have been a	60
2 3 4 5 6 7 8 9 10 11 12 13	to this, like stuck onto that. Q So it is probably dated around the same time of 10/4/93? A There is no date on this. I guess. Q Okay. A Do you want me to read it, or Q Do you recall, or do you have any independent recollection, of taking these notes or of the circumstances surrounding it? A No. Q Do you recall whether it may have been a conversation with Ms. Lynch? A I don't believe it was. This to me indicates someone telling me who Lorretta Lynch is.	60
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16	to this, like stuck onto that. Q So it is probably dated around the same time of 10/4/93? A There is no date on this. I guess. Q Okay. A Do you want me to read it, or Q Do you recall, or do you have any independent recollection, of taking these notes or of the circumstances surrounding it? A No. Q Do you recall whether it may have been a conversation with Ms. Lynch? A I don't believe it was. This to me	60
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2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20	to this, like stuck onto that. Q So it is probably dated around the same time of 10/4/93? A There is no date on this. I guess. Q Okay. A Do you want me to read it, or Q Do you recall, or do you have any independent recollection, of taking these notes or of the circumstances surrounding it? A No. Q Do you recall whether it may have been a conversation with Ms. Lynch? A I don't believe it was. This to me indicates someone telling me who Lorretta Lynch is. Q Do you recall who was telling you, or who these notes A I do not. Q Could you just read them for me? A "Loretta Wench, Lawyer, Whitewater	60
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19	to this, like stuck onto that. Q So it is probably dated around the same time of 10/4/93? A There is no date on this. I guess. Q Okay. A Do you want me to read it, or Q Do you recall, or do you have any independent recollection, of taking these notes or of the circumstances surrounding it? A No. Q Do you recall whether it may have been a conversation with Ms. Lynch? A I don't believe it was. This to me indicates someone telling me who Lorretta Lynch is. Q Do you recall who was telling you, or who these notes A I do not. Q Could you just read them for me?	60

```
61
    at all, "Sheffield mess" and "stir up"? Do you
 1
    recall what that was -- what the meaning of that is?
 2
 3
             "Sheffield Nelson" -- to me it reads
 4
    Sheffield Nelson stirring up stories. The the next
 5
    entry is Post and New York Times.
6
             Who is Sheffield Nelson?
 7
        A
             He is a political foe of President
8
    Clinton's in Arkansas.
9
             Okav.
        0
10
        A
             "Post and New York Times, call Bruce in
11
    Loretta. David Hale indicted for making bad loans
12
    through Small Business corporation. Friend of
13
    Sheffield Nelson. Few days before indicted; pressure
14
    to make loans by Jim Guy Tucker and BC. Jeff Girth
    wrote New York Times story, Nelson backdooring money
15
16
    to Hale."
17
             Do you have any independent recollection
    of -- Well, after reading it now, do you have any
18
19
    recollection of who may have been providing you with
20
    this information?
21
        Α
             I don't know.
22
             Other than what's reflected in these
        0
                                                            62
 1
    notes, do you have any more information related to
2
    the substance of what is written in them?
3
        A
             No.
4
            MR. KRAVITZ: Could we take five minutes?
5
            MS. FISHER: Absolutely.
6
            (Brief recess.)
7
            MR. TAYLOR: Are we back on the record?
8
            MS. FISHER: Back on the record, yes.
9
            BY MS. FISHER: (Resuming)
             I want to show you a document that is
10
    marked 12447, and it appears to be a message dated
11
    11/2/93, and ask, Ms. Caputo, if you could explain to
12
13
    me what this is.
14
             It's a telephone message from Richard Kyle
15
    of the Associated Press who asked a question as "HRC
16
    relationship with Madison Guaranty Savings & Loan
17
    while in Arkansas."
18
        0
             Do you recall returning this call to
    Mr. Kyle?
19
20
        Α
             I don't -- I don't specifically know.
             Do you recall any attempts to gather
21
22
    information to respond to Mr. Kyle on this matter,
```

63 1 other than what we had discussed? 2 Yes. What is on the back of this is the answer to his question. Whether I gave it to him or 3 someone else did, I honestly do not remember. 4 5 O And that is document 12448? 6 A Yes. 7 O Could you read that for me? 8 Several law firms represented them, and one firm was the Rose Law Firm at some point during 9 10 the 1980s. HRC did not work on the matter directly. And that is -- Do you recall what the 11 specific matter was, meaning the client matter? Was 12 it Madison in general, or --13 I don't remember. 14 Α Do you recall where you got this 15 0 16 information from? I don't. 17 Α O Or from whom? 18 19 Α I don't. 20 Do you recall any further conversations after November 2nd on this matter, other than the 21 22 press conference and preparation for the press 64 1 conference? 2 On the matter of Madison Guaranty? Α The relationship between Mrs. Clinton and 3 0 4 Madison Guaranty. 5 I don't have any memory, no. 6 0 Did you ever discuss it with Susan 7 Thomases? 8 No. 9 I am going to show you documents 12449 and 12450 dated November 10th, 1993, and ask you if you 10 could put these notes into context for me, if you 11 12 recall -- have an independent recollection of why you 13 took these notes? 14 This reflects a conversation I had with 15 Mrs. Clinton. 16 Q On November 10th, 1993? 17 Α 18 Do you recall the circumstances of that 0 conversation? 19 20 Was it at a meeting, or on the telephone?

I believe it was on the telephone.

Was anybody else present on that phone

21

22

O

66

```
1
    call?
2
        Α
3
        0
             And do you recall whether you called her,
4
    or she called you?
5
             My recollection is that this occurred at a
6
    time when there were a lot of press inquiries about
    Mrs. Clinton attempting to get power of attorney, and
7
    it probably was that I picked up the phone and called
8
9
    her in response to the press inquiries.
10
        O Could you just -- Do you recall whether
    these notes reflect what she was telling you at this
11
12
    time?
13
        Α
             I believe they do.
14
             Could you just read them, please?
             "McDugal didn't pay franchise firms.
15
    Didn't know if file --
16
            MR. TAYLOR: "Franchise"?
17
            THE WITNESS: -- "franchise firm's fees.
18
    Didn't know if filed. Tried to get him to give me
19
    power of attorney. Never got power of attorney.
20
    Never filed tax return for two to three years, so had
21
    wife sign forms. They were separated at the time.
22
    McDugal is former alcoholic, manic depressive on
 1
    Prozac and lithium. Got note from Secretary of State
 2
    that he didn't pay franchise taxes for two to three
 3
    years. Called Chris and Emily Wade and said, what's
 4
    going on? Tried to reach McDugal and never returned
 5
    calls. Didn't answer letters of mine. Several
 6
 7
    requests for power of attorney. McDugal lived in a
    garage and never answered his mail."
 8
 9
             BY MS. FISHER: (Resuming)
10
             So to the best of your recollection, these
     notes are limited -- or this conversation was limited
11
     to the press inquiries relating to Mrs. Clinton
12
13
     attempting to get power of attorney for the
     Whitewater matter from the McDugals? .
14
15
              Yes, because the taxes weren't being paid.
         Α
         O Do you recall whether they weren't being
16
17
     paid in 1992 or 1993? Or was it an earlier time?
18
              I don't remember. I don't know.
              Did you have any other discussions with
19
     Mrs. Clinton about Whitewater around this time
20
21
     period?
```

I may have. I have no recollection

22

Α

1	specific	ally of any.	
2	Q Do you recall that this was your first		
3	convers	ation with Mrs. Clinton about Whitewater?	
4	Α	No.	
5	Q	So you believe you may have had	
6	convers	ations with her earlier than November 10th?	
7	Α	It's possible, because it was in the news.	
8	Q	Do you recall having any conversations	
9	prior to	November 10th with Dave Kendall?	
10	Α	I don't recall any.	
11	Q	Do you recall having any discussions in	
12	1993 re	garding Whitewater or Madison with Mr.	
13	Hubbell	_	
14	Α	No.	
15	Q	Do you know a woman by the name of Amy	
16	Stuart?		
17	Α	Yeah.	
18	Q	Who is Amy Stuart?	
19	À	She worked at the Rose Law Firm.	
20	0	Do you recall her, Ms. Stuart, being at	
21	the Whi	te House in 1993?	
22	Α	No.	
			68
1	Q	How did you come to know Ms. Stuart?	68
1 2	Q A	How did you come to know Ms. Stuart? I knew she worked at the Rose Law Firm. I	68
	À	· · · · · · · · · · · · · · · · · · ·	68
2	A think I	I knew she worked at the Rose Law Firm. I	68
2 3	A think I	I knew she worked at the Rose Law Firm. I either met her in person or by telephone	68
2 3 4	A think I during t	I knew she worked at the Rose Law Firm. I either met her in person or by telephone	68
2 3 4 5	A think I during t Rock.	I knew she worked at the Rose Law Firm. I either met her in person or by telephone he Presidential Campaign when I was in Little You don't recall ever seeing her at the	68
2 3 4 5 6	A think I during t Rock.	I knew she worked at the Rose Law Firm. I either met her in person or by telephone he Presidential Campaign when I was in Little You don't recall ever seeing her at the	68
2 3 4 5 6 7	A think I during t Rock. Q White H	I knew she worked at the Rose Law Firm. I either met her in person or by telephone the Presidential Campaign when I was in Little You don't recall ever seeing her at the House?	68
2 3 4 5 6 7 8	A think I during t Rock. Q White H	I knew she worked at the Rose Law Firm. I either met her in person or by telephone the Presidential Campaign when I was in Little You don't recall ever seeing her at the House? No.	68
2 3 4 5 6 7 8 9	A think I during t Rock. Q White F A	I knew she worked at the Rose Law Firm. I either met her in person or by telephone the Presidential Campaign when I was in Little You don't recall ever seeing her at the House? No. (Handing document to the witness.)	68
2 3 4 5 6 7 8 9	A think I during to Rock. Q White H A Q October	I knew she worked at the Rose Law Firm. I either met her in person or by telephone the Presidential Campaign when I was in Little You don't recall ever seeing her at the House? No. (Handing document to the witness.) This is a document, 12451 and 12452, dated	68
2 3 4 5 6 7 8 9 10	A think I during to Rock. Q White H A Q October Althoug	I knew she worked at the Rose Law Firm. I either met her in person or by telephone the Presidential Campaign when I was in Little You don't recall ever seeing her at the House? No. (Handing document to the witness.) This is a document, 12451 and 12452, dated 12, 1993, from Bruce Lindsey to the file.	68
2 3 4 5 6 7 8 9 10 11 12	A think I during to Rock. Q White H A Q October Althoug this lett	I knew she worked at the Rose Law Firm. I either met her in person or by telephone the Presidential Campaign when I was in Little You don't recall ever seeing her at the House? No. (Handing document to the witness.) This is a document, 12451 and 12452, dated 12, 1993, from Bruce Lindsey to the file. th I notice that you are not one of the CCs on	68
2 3 4 5 6 7 8 9 10 11 12 13	A think I during to Rock. Q White H A Q October Althoug this lett	I knew she worked at the Rose Law Firm. I either met her in person or by telephone the Presidential Campaign when I was in Little You don't recall ever seeing her at the House? No. (Handing document to the witness.) This is a document, 12451 and 12452, dated 12, 1993, from Bruce Lindsey to the file. In notice that you are not one of the CCs on er, it was represented by the White House	68
2 3 4 5 6 7 8 9 10 11 12 13 14	A think I during to Rock. Q White H A Q October Althoug this lett	I knew she worked at the Rose Law Firm. I either met her in person or by telephone the Presidential Campaign when I was in Little You don't recall ever seeing her at the House? No. (Handing document to the witness.) This is a document, 12451 and 12452, dated 12, 1993, from Bruce Lindsey to the file. In notice that you are not one of the CCs on er, it was represented by the White House is came from your files.	68
2 3 4 5 6 7 8 9 10 11 12 13 14 15	A think I during to Rock. Q White F A Q October Althoug this lett that this	I knew she worked at the Rose Law Firm. I either met her in person or by telephone the Presidential Campaign when I was in Little You don't recall ever seeing her at the House? No. (Handing document to the witness.) This is a document, 12451 and 12452, dated 12, 1993, from Bruce Lindsey to the file. In notice that you are not one of the CCs on er, it was represented by the White House is came from your files. Is that correct?	68
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16	A think I during to Rock. Q White F A Q October Althoug this lett that this	I knew she worked at the Rose Law Firm. I either met her in person or by telephone the Presidential Campaign when I was in Little You don't recall ever seeing her at the House? No. (Handing document to the witness.) This is a document, 12451 and 12452, dated 12, 1993, from Bruce Lindsey to the file. In notice that you are not one of the CCs on the it was represented by the White House is came from your files. Is that correct? Yes.	68
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17	A think I during to Rock. Q White H A Q October Althoug this lett that this	I knew she worked at the Rose Law Firm. I either met her in person or by telephone the Presidential Campaign when I was in Little You don't recall ever seeing her at the House? No. (Handing document to the witness.) This is a document, 12451 and 12452, dated 12, 1993, from Bruce Lindsey to the file. In notice that you are not one of the CCs on the er, it was represented by the White House is came from your files. Is that correct? Yes. Are these your notes?	68
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18	A think I during to Rock. Q White H A Q October Althoug this lett that this	I knew she worked at the Rose Law Firm. I either met her in person or by telephone the Presidential Campaign when I was in Little You don't recall ever seeing her at the House? No. (Handing document to the witness.) This is a document, 12451 and 12452, dated 12, 1993, from Bruce Lindsey to the file. The I notice that you are not one of the CCs on the it was represented by the White House is came from your files. Is that correct? Yes. Are these your notes? No.	68
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19	A think I during to Rock. Q White H A Q October Althoug this lett that this	I knew she worked at the Rose Law Firm. I either met her in person or by telephone the Presidential Campaign when I was in Little You don't recall ever seeing her at the House? No. (Handing document to the witness.) This is a document, 12451 and 12452, dated 12, 1993, from Bruce Lindsey to the file. In notice that you are not one of the CCs on er, it was represented by the White House came from your files. Is that correct? Yes. Are these your notes? No. Do you know whose notes these are?	68

69 Do you know how you came into possession 1 0 2 of this document? 3 Someone gave it to me, but I don't know 4 who it was. 5 And whoever gave it to you told it that this was Mrs. Clinton's handwriting, or do you just 6 7 recognize it to be Mrs. Clinton's handwriting? I recognize it to be Mrs. Clinton's 8 9 handwriting. 10 On the second page, the first question 11 says, "Did the David Hale Whitewater matter come up 12 during Jim Guy Tucker's visit with the President last Thursday?" 13 14 And the handwritten answer is, "No." 15 Do you recall discussing that specifically 16 with the First Lady? 17 No. I don't. Α 18 And the second question relating to whether Susan McDugal discussed the possibility of 19 letting the McDugals take Whitewater off the 20 21 Clintons' hands in 1986, and it goes on to relate to 22 some other things. 70 Can you read -- I'll just read it in total. 1 "Did Susan McDugal discuss with Hillary 2 3 Clinton the possibility of letting the McDugals take 4 Whitewater off the Clintons' hands in 1986? And if 5 so, why didn't Mrs. Clinton agree to the arrangement? And then it goes on to say, "This question 6 is based upon Jim McDugal's statement to Isakoff that 7 8 the reason he put International Paper property in Whitewater's name was because he expected the 9 10 Clintons to turn over Whitewater, and that Susan discussed the possibility with Hillary." 11 12 And then it goes on. Could you just tell 13 me what Mrs. Clinton's notes say in the margin. Could you read them? 14 15 I don't remember anything about this and never knew anything about any International Paper 16 17 property. 18 Did you discuss this matter with Mrs. 19 Clinton at any time? 20 No. I didn't. 21 I recall at some point preparing for the

press conference, you know, that this general

		71
1	Whitewater topic obviously came up, but	
2	specifically and I remember her saying she didn't	
3	know anything about International Paper.	
4	Q The last question: "Did Hillary Clinton	
5	know about the Susan McDugal loan from Capital	
6	Management on the land purchased from International	
7	Paper?"	
8	And the handwritten note is, "No" and that	
9	is also Mrs. Clinton's?	
10	A I'm not sure whose that is.	
11	Q Are the two notes someone other than Mrs.	
12	Clinton's?	
13	A I don't know if those I don't know.	
14	Q Do you recall discussing with Mrs. Clinton	
15	the Susan McDugal loan from Capital Management?	
16	A No, I don't.	
17	MR. TAYLOR: In the interest of	
18	completeness, you should probably be aware that the	
19	original of this document indicates that this was	
20	Maggie Williams' copy.	
21	MS. FISHER: Oh? Okay. There was a check	
22	or something on it?	
		72
1	MR. TAYLOR: It is highlighted.	72
2	MR. TAYLOR: It is highlighted. MS. FISHER: Okay. Okay. So for the	72
2 3	MR. TAYLOR: It is highlighted. MS. FISHER: Okay. Okay. So for the record that is page 12452, Ms. Williams' name is	72
2 3 4	MR. TAYLOR: It is highlighted. MS. FISHER: Okay. Okay. So for the record that is page 12452, Ms. Williams' name is highlighted.	72
2 3 4 5	MR. TAYLOR: It is highlighted. MS. FISHER: Okay. Okay. So for the record that is page 12452, Ms. Williams' name is highlighted. BY MS. FISHER: (Resuming)	72
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1 Do you recall who was present at the 2 meeting?

A I don't.

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0 Was Mr. Kendall present at the meeting?

A I don't know.

Could you put these notes into context for 0 me at all regarding the subpoena?

My memory serves me that these notes were probably taken at a meeting to discuss what was in the media and media strategy, and that it indicates that we requested a subpoena when the Whitewater documents were turned over to the Justice Department so as to protect against leaks to the press.

Did you have some basis to believe that producing these documents pursuant to a subpoena would be different than -- would protect the White House from producing the documents to other entities?

My understanding was, a subpoena was requested to preserve the integrity of the Grand Jury and to prevent any leaks from getting out to the media so that there would be a fair process that took place.

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At any time did you have any discussions 1 2 relating to Whitewater or Madison with Mr. Hubbell? 3

A No.

4 0 Mr. Kennedy?

5 A No.

6 Other than Mr. Lindsey and Mrs. Clinton, 7 was there anyone else in the White House that you discussed Whitewater or Madison-related issues -- and I 8 9 would exclude your immediate press office.

Oh, well there were others in the White House press apparatus, because obviously Whitewater was in the news.

13 Other than the press-related and 14 communications-related people. Basically the 15 information I am trying to get at is: Is there 16 anyone else you would go to in the White House, or 17 you'd discuss these matters with in the White House 18 to get the factual information to answer these press 19 inquiries?

20 A No.

21 Anyone in the White House Counsel's O 22 office?

75 1 Α No. 2 Do you have any knowledge relating to the 0 3 possibility that there were Madison Guaranty-related files in Mr. Foster's office when he died? 4 5 No Α 6 O Did you ever speak to Mrs. Clinton about Madison files from the Rose office? 7 8 No 9 Did you ever talk to Bruce Lindsey about 10 the Madison files from the Rose Law Firm? 11 No 12 Did you ever gain any additional knowledge 0 13 relating to the loan from David Hale to Susan 14 McDugal? 15 Α 16 Did you discuss with anyone in the White 17 House the fact that the McDugals paid a 18 disproportionate amount of money into the Whitewater Development vis-a-vis the Clintons? 19 20 Α No 21 MS. FISHER: I think that is probably it, 22 if you'll just give me a minute. 76 1 (Pause.) 2 (Discussion off the record.) 3 MS. FISHER: Back on the record. BY MS. FISHER: (Resuming) 4 5 Were you ever involved in answering press 6 inquiries relating to Dan Lassiter or Lassiter & 7 Company-related issues? 8 MR. KRAVITZ: I am going to object to that 9 question. I think that that goes beyond the scope of 10 the Resolution. If you want to limit it to that 11 paragraph in the Resolution, I will withdraw my 12 objection. 13 MS. FISHER: Well, I don't want to limit 14 it. 15 MR. KRAVITZ: Then I object. 16 If you want to ask her whether she ever 17 answered press inquiries relating to bond 18 underwriting contracts between the Arkansas

Development Finance Authority and Dan Lassiter or

going to be other questions that are relevant other

MS. FISHER: Neal, obviously there are

Lassiter & Company, then that is acceptable.

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77 1 than just that one issue. I mean, you can get to 2 that information. I mean, it's reasonable to think 3 that the answer to that question could lead to 4 evidence that is relevant. 5 I mean, the answer might be "no." 6 MR. KRAVITZ: That doesn't make the 7 question proper. 8 MR. TAYLOR: What is the question? 9 MS. FISHER: Would you read back the 10 question? 11 THE REPORTER: "Were you ever involved in answering press inquiries relating to Dan Lassiter or 12 Lassiter & Company-related issues?" 13 MR. TAYLOR: I am going to let her answer. 14 MR. KRAVITZ: Well, I am not sure I am. 15 16 MR. TAYLOR: Oh? Okay. 17 MR. KRAVITZ: This was part of the 18 Resolution that was negotiated very carefully and was 19 specifically limited to the language that is in the 20 Resolution which says, and I am quoting from Section 21 1(b)(3)(F), and it authorizes the Committee to investigate, quote: 22 78 1 "The bond underwriting contract between 2 Arkansas Development Finance Authority and Lassiter & 3 Company." 4 MR. TAYLOR: May I then suggest that we proceed this way. You ask the narrow question and 5 get the answer. If there are broader questions that 6 7 you want to ask, ask them, make the record on the 8 questions so that his objection can be --9 MS. FISHER: That's fine. 10 MR. TAYLOR: That means that we don't have 11 to come back if the objections are sustained. 12 MS. FISHER: Okay. 13 BY MS. FISHER: (Resuming) O Did you ever have any involvement in 14 answering press inquiries related to the bond 15 underwriting contract between the Arkansas 16 Development Finance Authority and Lassiter & 17 18 Company? 19 No. Α

Did you have any discussions with anyone

at the White House relating to the Arkansas

Development Finance Authority?

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point --

79 No. Α Did you have any discussions at the White House -- with anyone at the White House relating to any underwriting contracts involving Lassiter & Company? MR. KRAVITZ: Wait a minute. Do you mean bond underwriting contracts? MS. FISHER: Bond underwriting contracts, sorry. MR. KRAVITZ: Do you mean from the Arkansas Development Finance Authority? MS. FISHER: She might not know they're from the Arkansas Development Finance Authority, so I am trying to get at the information in any way that I can. MR. KRAVITZ: I just want to make sure that that is what you mean, even though you are not limiting your question. MS. FISHER: I am not limiting my question. MR. KRAVITZ: That is not responsive to my question. I mean, if you know about bond 80 underwriting contracts between Lassiter and some other agency, that is an inappropriate inquiry. If you are just trying to get at the same issue --MS. FISHER: I was trying to get the information --MR. KRAVITZ: Let me finish without interrupting me, please. If you are trying to get at the subject that is in the Resolution, I will not object to that question. But if you are trying to bring in something that is irrelevant to the Resolution by asking that question, I object. MR. TAYLOR: I think you guys are fussing over a moot point. What is the answer to the question? THE WITNESS: What is the question? MR. KRAVITZ: Let me just state for the

record, it may be that we are fussing over a moot

MR. TAYLOR: With regard to this witness.

MR. KRAVITZ: -- with regard to this 1 2 witness, but this appears to be an issue that may not 3 be moot with regard to other witnesses. 4 MR. TAYLOR: All right, then I will be 5 more respectful. 6 MR. KRAVITZ: And it is important for our 7 record to be protected. 8 MS. FISHER: Would you read the question 9 back, please? 10 THE REPORTER: "Did you have discussions 11 at the White House with anyone at the White House 12 related to any underwriting contracts involving 13 Lassiter & Company?" 14 "Mr. Kravitz: Do you mean bond 15 underwriting companies?" 16 "Ms. Fisher: Yes, I mean bond 17 underwriting company." 18 MR. TAYLOR: You object to the question as 19 phrased on the ground that it calls for information 20 beyond the scope of the Resolution? MR. KRAVITZ: That it could. 21 22 MR. TAYLOR: All right, do you feel 82 1 strongly enough about it that you want to preserve 2 that and have it reviewed? 3 MR. KRAVITZ: Let's talk a minute. 4 (Mr. Kravitz and Ms. Fisher confer.) 5 (Discussion off the record.) 6 MS. FISHER: Back on the record. 7 BY MS. FISHER: (Resuming) 8 Do you recall any discussions at the White 9 House, or did you receive any press inquiries 10 relating to bond underwriting contracts and Lassiter 11 & Company or Dan Lassiter? 12 Α No. 13 Do you recall any issues relating to the 14 Perry County Bank arising while you were at the White 15 House? 16 Α No. 17 Do you recall receiving any information 18 related to Capital Management Services, Inc., while 19 you were at the White House? 20 No. 21 Q Do you mean other than what she has 22 already testified to today?

		83
1	A Yes. Other than your notes of the	
2	conversations that you have testified to today?	
3	A No.	
4	Q Do you recall receiving any	
5	information regarding whether Susan McDugal	
6	delivered Whitewater-related documents to the	
7	Governor's Mansion while President Clinton was	
8	Governor?	
9	A I remember at one point there were press	
0	inquiries about that.	
1	Q Do you recall discussing that with Mrs.	
2	Clinton?	
3	A (Pause.)	
4	I don't remember.	
5	I remember press inquiries, but I don't	
6	remember.	
7	(Pause.)	
8	Q Do you ever recall discussing with Mrs.	
9	Clinton whether Mrs. Clinton shared in the profits	
20	earned from the Rose Law Firm's representation of	
21	clients before state agencies?	
22	I can refer you to the part of the press	
		-
		84
1	conference that speaks of this, and it is 012476, if	84
1	conference that speaks of this, and it is 012476, if that would refresh your recollection?	84
		84
2	that would refresh your recollection?	84
2	that would refresh your recollection? (Handing document to the witness.)	84
2 3 4	that would refresh your recollection? (Handing document to the witness.) A So can you	84
2 3 4 5	that would refresh your recollection? (Handing document to the witness.) A So can you Q Does this refresh your recollection of	84
2 3 4 5 6	that would refresh your recollection? (Handing document to the witness.) A So can you Q Does this refresh your recollection of any discussions you may have had relating to this	84
2 3 4 5 6 7	that would refresh your recollection? (Handing document to the witness.) A So can you Q Does this refresh your recollection of any discussions you may have had relating to this issue, other than well, any discussions you may have	84
2 3 4 5 6 7 8	that would refresh your recollection? (Handing document to the witness.) A So can you Q Does this refresh your recollection of any discussions you may have had relating to this issue, other than well, any discussions you may have had	84
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1 said about making a decision not to share in the 2 profits from any representation of state agencies at 3 the time she became a partner in the law firm is 4 consistent --5 Α Yes. 6 -- with what she had said in the prep O 7 session? 8 Α Yes 9 Do you recall ever learning any further O 10 information about this issue? 11 No. 12 MS. FISHER: I believe that's all I have. 13 Thank you. 14 MR. KRAVITZ: I was going to say I have no 15 questions until --16 (Laughter.) 17 MR. KRAVITZ: I have no questions. 18 MR. TAYLOR: Thank you. 19 MS. FISHER: Thank you, so much. 20 (Whereupon, at 3:50 p.m., Thursday,

21 December 21, 1995, the instant deposition ceased.)

I, JANE W. BEACH, the officer before whom the foregoing deposition was taken, do hereby certify that the witness whose testimony appears in the foregoing deposition was duly sworn; that the testimony of said witness was taken in shorthand and thereafter reduced to typewriting by me or under my direction; that said deposition is a true record of the testimony given by said witness; that I am neither counsel for, related to, nor employed by any of the parties to the action in which this deposition was taken; and, further, that I am not a relative or employee of any attorney or counsel employed by the parties hereto, nor financially or otherwise interested in the outcome of this action.

Notary Public in and for the District of Columbia

My Commission Expires NOVEMBER 14, 1996

ERRATA

PAGE	LINE	CHANGE FROM	CHANGE TO	REASON
18		1922	1982	
19	1	Bruce Rich Massey	Bruce Rich Ma	assie
	14	unusually	usually	
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DEPOSITION OF SAM I. BRATTON, JR. IN RE: S. RES. 120

VOLUME I

FRIDAY, JANUARY 5, 1996

U.S. SENATE,
COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS,
SPECIAL COMMITTEE TO INVESTIGATE WHITEWATER
DEVELOPMENT CORPORATION AND RELATED MATTERS,
Washington, DC.

Deposition of SAM I. BRATTON, JR., called for examination pursuant to notice of deposition, at 10:05 a.m. in Room 640–A of the Hart Senate Office Building, before DAVID L. HOFFMAN, a Notary Public within and for the District of Columbia, when were present:

MARK J. BRENNER, Esq.
Majority Assistant Special Counsel
MICHAEL P. O'CALLAGHAN, Esq.
Majority Associate Special Counsel
DOUGLAS R. NAPPI, Esq.
Majority Counsel
LANCE COLE, Esq.
Minority Deputy Special Counsel
JAMES S. PORTNOY, Esq.
Minority Associate Special Counsel
U.S. Senate
Committee on Banking, Housing, and Urban Affairs
534 Dirksen Building
Washington, DC 20510
On behalf of the Committee.

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by Mr. Nappi		240
by Mr. O'Callaghan		242

3 PROCEEDINGS (10:05 a.m.) 2 3 Whereupon, 4 SAM I. BRATTON, JR. 5 was called as a witness herein, and having been first duly sworn, was examined and testified as follows: 6 7 **EXAMINATION** BY MR. BRENNER: 8 9 0 Please state your name for the record. Sam I. Bratton, Jr. 10 Mr. Bratton, I'm just going to run through 11 12 a couple of preliminaries. This is a deposition being conducted 13 pursuant to Senate Resolution 120. Resolution 120 14 15 establishes a Special Committee administered by the Banking Committee to conduct an investigation 16 involving Whitewater Development Corporation, Madison 17 Guarantee Savings & Loan Association, Capital 18 Management Services, Inc., the Arkansas Development 19 20 Finance Authority and other related matters. 21 This deposition is in advance of public 22 hearings anticipated to occur in late January and 1 February, and you may be called to testify at those 2 hearings. 3 I will ask you a series of questions, as 4 will Mr. O'Callaghan, when he joins us. 5 I'm going to ask you to testify under 6 oath. If you don't understand any of the questions I 7 ask, or if I'm not speaking loud enough, or if I'm not enunciating well enough, please ask me to speak 8 9 up or rephrase the question. 10 If you need a break, just let us know at 11 any time. The stenographer will prepare a record of the questions and answers and this deposition will be 12 treated as Committee confidential, quote unquote, 13 until the commencement of the hearings. 14 Prior to the hearings, you'll receive a 15 16 letter from the Committee telling you that you may 17 come to the Senate and review the transcript of your deposition and make note of any corrections for the 18 19 transcription on an errata sheet. 20 If you're called to testify at the public 21 hearings, you will be permitted to have a copy of your deposition transcript four days in advance of

5 1 the hearings. 2 MR. PORTNOY: I'm sorry to interrupt. We 3 can do this off of the record. 4 (Discussion off the record.) 5 BY MR. BRENNER: 6 Q You may be represented by counsel. I see you're not represented by counsel at this point. 7 8 Is this correct? 9 Correct. A Objections may come to the form of the 10 question and will be noted for the record. You may 11 12 object on the grounds of relevance and any privilege that you feel you may have. 13 The Committee Chairman will rule on all 14 objections where the witness refuses to answer the 15 16 question. 17 I'm going to run through a few background 18 questions now. Would you please state your name for the 19 20 record? 21 Sam I. Bratton, Jr. Α 22 6 1 2 Your present business address? My present business address is Arkansas 3 Public Service Commission, 1000 Center, Post Office 4 5 Box C400, Little Rock, Arkansas, 72203. O Mr. Bratton, could you please run briefly 6 through your employment history? 7 I graduated from the University of 8 9 Arkansas Law School at Favetteville in 1973. The year immediately following that, 1973-10 74. I clerked for Associate Justice John Fogleman of 11 the Arkansas Supreme Court. I then went to work in 12 13 the State Attorney General's Office. I worked approximately two and a half 14 15 years for then attorney general Jim Guy Tucker. He was succeeded by Bill Clinton. I worked for the 16 President while he was attorney general for two 17 years. When he became governor in 1979, I worked for 18 him during the 1979-80 term. 19 I returned to the Governor's office in the 20 21 fall of 1983. I worked there until the Spring of

1989. At that point, I was appointed as Chairman of

the Public Service Commission and I have served in 1 2 that position as of this date. Could you briefly explain the duties of 3 the Chairman of the Public Service Commission? 4 5 The Public Service Commission is the state 6 government agency in Arkansas that regulates utilities. We regulate telephone, natural gas, and 7 electric utilities, rates, quality of service, and 8 9 other related matters. 10 O Did you speak to anyone prior to your deposition about what you may discuss at the 11 deposition or the fact that you've been called? 12 I have probably told any number of people 13 that I had been called for a deposition. 14 15 O Do you think you could recall the names of 16 those people? A I don't know. Several people, friends, 17 18 family. 19 O Did you discuss it with anybody who currently resides in the greater Washington, D.C. 20 21 area? 22 I don't believe so. 8 1 Have you testified about similar matters 2 before, either orally or in writing? 3 A Yes. Without going into details as to grand 4 jury testimony, when was that? 5 6 Approximately a month ago. 7 MR. PORTNOY: Can we assume from that that that was testimony before the grand jury? 8 THE WITNESS: It was before the grand jury 9 10 in Little Rock. 11 BY MR. BRENNER: Q I'd like to go to the years you spent in 12 the Attorney General's office. You stated that you 13 started with the Attorney General Jim Guy Tucker? 14 15 Α

> 0 How did you come to meet Mr. Tucker?

A Our offices at the Supreme Court were 17 right down the hall from the Attorney General's 18

office. I don't recall specifically when or how I 19

met him. But there were people I knew who worked in 20

the Attorney General's office. I was in and out of 21

22 there from time to time.

9 1 What was the nature and extent of your relationship with Governor Tucker while he was 2 3 Attorney General? 4 I was an assistant attorney general, one 5 of probably twenty staff lawyers. 6 Q Was your relationship strictly 7 professional? 8 Α Yes. How did you come to make the move from the 9 10 Supreme Court to the Attorney General's office? A The Supreme Court clerkships were one year 11 12 or nine-month appointments, and so I applied for a 13 number of jobs as I was completing that clerkship. One of those positions was with the Attorney 14 General's office. 15 16 Q What were your responsibilities as deputy 17 attorney general? 18 I was an assistant attorney general. I 19 worked as the lawyer for the State Education Agency, for a number of other smaller boards and commissions 20 from time to time, and worked in the opinions 21 22 section. 10 How did you come to meet President 1 0 2 Clinton? 3 A I met him during the campaign when he ran for Attorney General late in the campaign or shortly 4 5 after the election. I don't recall which. 6 At that point, did you have discussions 7 with the President about staying at the Attorney General's office? 9 A I did. 10 Could you describe those discussions? O 11 No, not at this point. I mean, we had an 12_ interview. He interviewed every member on the staff that was interested in continuing to stay on the 13 14 staff. That was 18 years ago. I don't remember the 15 substance of the discussions. MR. BRENNER: Can we go off the record for 16 17 a minute, please?

BY MR. BRENNER:

Q Could you just so I'm clear, I wasn't able

MR. BRENNER: Can we go back on the

(Discussion off the record.)

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record.

11 1 to get the dates, when you graduated, was that in 2 19732 3 Α 73. 4 Q At that point, you went to? Clerk for the State Supreme Court the fall 5 A 6 of '73 through the summer of '74. 7 And then? 0 8 I went to work in the AG's office in Α probably August or September of '74, and was there 9 10 through the end of '78. And at the end of '78? 11 0 I went to work in the Governor's office in 12 Α January of 1979. Worked there through the end of 13 1980. Was in private law practice for approximately 14 two and a half years. Returned to the Governor's 15 office in the fall of 1983. 16 17 What firm were you with in private O 18 practice? 19 Α I was a solo practitioner. 20 I take it you left in 1980 due to the 21 change in administrations? 22 That's correct. 12 1 You stated that as an assistant attorney 2 general, some of the issues that you dealt with were education? 3 4 Yes Α 5 And there were some other boards that you 6 worked with? 7 A Yes. 8 Do you recall the names of any of those 9 boards? 10 I represented the board that licensed 11 motor vehicle dealers. I worked as counsel for the 12 board that regulated private security guards and security companies, and probably some others I don't 13 14 recall at this point. 15 At the end of 1978, were you asked to go to the Governor's office by then Governor Clinton? 16 Yes. 17 Α

Do you recall any of the discussions you

By this time, had you met Mrs. Clinton?

had about going to the Governor's office?

No, not the particulars.

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Yes.

		13
1	Q What was the nature and extent of your	
2	relationship at that time with Mrs. Clinton?	
3	A I mean I knew her. I'd met her two or	
4	three times but that was the extent of it.	
5	Q When you went to the Governor's office,	
6	what issues were you working on?	
7	A During the first two years I worked there,	
8	I worked partly on education-related issues.	
9	Q And what were you doing?	
10	A I was the Governor's office liaison with	
11	the various education agencies of state government.	
12	Q Could you specify the agencies that you	
13	worked with as a liaison?	
14	A The State Department of Education, the	
15	State Department of Higher Education, the School for	
16	the Blind, the School for the Deaf, the State Library	
17	Commission, and the Educational Television Network,	
18	the public two-year and four-year institutions of	
19	higher education.	
20	Q Who asked you to make the move to the	
21	Governor's office?	
	A I'm not ouro what you're	
22	A I'm not sure what you're	
	A 1 in not sure what you ie	14
22 1	Q You stated that you left the Attorney	14
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1 2	Q You stated that you left the Attorney General's office to go to the Governor's office. Did	14
1 2 3	Q You stated that you left the Attorney General's office to go to the Governor's office. Did President Clinton ask you to join his team in the Governor's office? A Well I had indicated an interest to make	14
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1 the Governor's office? 2 I initially returned in the fall of 1983 3 to work on some issues around a special session involving education that was convened in the fall of 4 5 1983, and I believe Betsy Wright first approached me about coming back and assisting in that effort. 6 When did you first meet Betsy Wright? 7 8 Α I first met Betsy Wright some time shortly after the 1989 gubernatorial election. 9 What was her role in the Governor's office 10 11 at that time? She was not in the Governor's office at 12 13 that time. 14 What was her position at that time, do you O 15 know? 16 Α She came to Arkansas in the latter part of 1980 or early 1981, I think probably the latter part 17 of 1980, to assist in organizing President Clinton's 18 records and files from the Governor's office, and 19 20 eventually stayed in Arkansas, and ultimately worked 21 on his reelection campaign in 1982. After working on his reelection campaign, 22 16 did she then go to work in the Governor's office? 1 2 Α Yes. What was her role in the Governor's office 3 0 4 at that time? 5 I'm not sure what her title was. Α Initially during most of the time that I worked 6 there, she was the senior staff person, the chief of 7 staff. She was not initially but was more or less 8 the number two staff person initially. 9 10 I'm sorry, who was the number one staff person initially? 11 12 Maurice Smith. Α 13 0 Did you have any contact with Maurice 14 Smith? 15 Yes. Α 16 What was the nature and extent of your 0 contact with Mr. Smith at that time? 17 18 I think he was probably still chief of 19 staff when I first started back in the fall of 1983. 20 You spent much of your time in the 21 Governor's office working closely with Betsy Wright?

22

Yes.

17 0 She was your supervisor? 2 Α Yes. 3 0 Did you handle issues, did you ever handle 4 issues other than educational issues? 5 Yes. 6 O When did you start handling issues other 7 than educational issues? 8 A Beginning in January 1984. 9 What other issues were you working on? 0 I handled legislative issues, other legal 10 11 issues, and was the liaison with the State Department 12 of Finance and Administration and most of the 13 regulatory type agencies. And would that include the Public Service 14 15 Commission? 16 Α It would. 17 0 So you acted in a liaison capacity to the Public Service Commission? 18 19 Α Yes. 20 And you did that from January of '84 until 0 21 1989? 22 Yes. 18 Did you work with the Alcohol Control 1 2 Board as a liaison, another regulatory agency? A I did some work related to that agency but 3 4 not much. 5 I'd like to flesh out, if we could a 6 little bit, your role in the Governor's office 7 between the period of 1984 and 1989, and how that may 8 have changed. 9 Could you describe the work you performed. 10 Subsequent to our discussion of your changing role, 11 did it continue to change? 12 It did not basically change from January of '84 until the time I left. It was more or less 13 14 the same role. 15 Could you explain the hierarchy in the Governor's office in terms of who was in charge, who 16 17 they supervised? 18 During most of that time, Betsy Wright was 19 chief of staff, and professional staff for the most 20 part all reported directly to her. O You stated earlier that you reported to 21

her. Did you have anyone who reported to you?

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		19
1	A A secretary.	
2	Q What was your secretary's name?	
3	A Judy Smithson.	
4	Q Spell that for the record, please.	
5	A S-M-I-T-H-S-O-N.	
6	Q You stated that as well as acting as a	
7	liaison to the various regulatory agencies, you	
8	worked on legislative issues. Is that correct?	
9	A Yes.	
10	Q What sort of legislative issues did you	
11	work on?	
12	A Almost any legislative issue that the	
13	Governor's office was involved with.	
14	Q In that capacity, did you make	
15	recommendations to the Governor about legislation	
16	that had passed the Arkansas House and Senate?	
17	A Yes, I did.	
18	Q Did you compile information in order to	
19	make those recommendations from the various agencies?	
20	A From time to time.	
21	Q Were you also responsible for seeing that	
22	the Governor's agenda, legislative agenda, saw its	
		20
1	way through the Arkansas Congress?	20
		20
1	way through the Arkansas Congress?	20
1 2	way through the Arkansas Congress? A That was part of my responsibilities.	20
1 2 3	way through the Arkansas Congress? A That was part of my responsibilities. Other people had some part of that responsibility as	20
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performed more or less both functions.

Q When you say she dealt with the internal operations for the most part, were there other people, or did Mr. Smith deal with some of those?

A She and Mr. Smith shared those responsibilities to some extent, but the day to day direct management of the staff was largely under Betsy Wright's direction.

Q Do you recall the dates or the general months or seasons of Mr. Smith's tenure and Ms. Wright's tenure?

A I don't right off hand, no.

Q I was hoping you might be able to explain with regard to the legislative work that you did, what exactly that entailed.

A It entailed any number of different things. Drafting legislation, reviewing legislation during the legislative session, working with members of the General Assembly who were sponsoring legislation that the Governor was putting forward in effort to try and get our Governor's legislative

program passed. When legislation was passed, I

reviewed it prior to the Governor either signing or vetoing it. Drafted veto messages for legislation that was vetoed, and generally anything else that had to do with the legislative session, and tried to put forward the Governor's program.

Q Was there anyone else in the Governor's office who was responsible for any of the legislative issues, other than yourself?

A During the legislative session, that was the primary focus of everyone on the Governor's staff, so everyone at the professional staff level that had areas of expertise would have some responsibilities with regard to legislative initiatives affecting their respective areas of responsibility.

Q What were your respective areas of responsibility?

A My primary responsibilities had to do with budget legislation, tax legislation, and legislation that would have affected any of the regulatory agencies. But I had general overall responsibility for tracking legislation and then reviewing it once it passed.

1 2

Q Have you been contacted by anyone working with the White House or working with the Federal Government since President Clinton was elected?

MR. PORTNOY: Has he spoken with anyone with respect, oh, with respect to any particular subject?

MR. BRENNER: I'm trying to find out at this point whether or not he's spoken to anyone with regard to perhaps working within the Federal Government.

THE WITNESS: I had talked with the President shortly after the election about a possible interest in working with the Federal Government.

I have not talked with anybody since that time, that I recall, regarding any intent to work in the Federal Government.

BY MR. BRENNER:

19 Q What was the nature and extent of those 20 conversations?

A I had initially indicated to the President that I would be interested in being considered for

appointment to the Federal Energy Regulatory Commission.

Q When was the last time you recall speaking with President Clinton?

A I think I spoke to him very briefly back in the summer when he was in Little Rock.

Q Was that on a personal matter or professional matter?

A I spoke to him very briefly at a dedication of renovated apartments that were being named in honor of a man who had been the director of finance and administration during a good part of the time that the President had been Governor. I was present at that along with several hundred other people, and shook hands and spoke to him briefly.

Q What was the name of the individual to whom the project was being dedicated?

A Maitland Martin.

MR. NAPPI: And that was this summer? THE WITNESS: Yes. I believe it was this

21 summer.

22 BY MR. NAPPI:

		25
1	Q Do you recall the nature of the	
2	conversation?	
3	MR. COLE: Doug, I'd just like to note for	
4	the record that the understanding that we have in	
5	terms of taking depositions is that one lawyer will	
6	do the questioning. We modified that recently for	
7	some of these Arkansas depositions in that if one	
8	lawyer is going to take a deposition on a particular	
9	subject matter, and then another lawyer on a	
10	different subject matter, we agreed to that. But the	
11	understanding that we've had going forward in all of	
12	these depositions is that one lawyer would ask the	
13	questions so a witness is not subjected to cross	
14	examination by two lawyers at the same time. That's	
15 16	just the way we've done it.	
17	MR. NAPPI: Fair enough. MR. COLE: That's the way we've done all	
18	these depositions up to this point.	
19	MR. NAPPI: I apologize for that, Mr.	
20	Bratton.	
21	MR. BRENNER: I apologize, Mr. Bratton,	
22	for not going perhaps as quickly as my colleague	
		26
1	would like.	26
2	would like. BY MR. BRENNER:	26
2 3	would like. BY MR. BRENNER: Q Do you recall the nature of the	26
2 3 4	would like. BY MR. BRENNER: Q Do you recall the nature of the conversation?	26
2 3 4 5	would like. BY MR. BRENNER: Q Do you recall the nature of the conversation? A It was a ten-second hello-how-are-you,	26
2 3 4 5 6	would like. BY MR. BRENNER: Q Do you recall the nature of the conversation? A It was a ten-second hello-how-are-you, good-to-see-you.	26
2 3 4 5 6 7	would like. BY MR. BRENNER: Q Do you recall the nature of the conversation? A It was a ten-second hello-how-are-you, good-to-see-you. Q At that point, did you see the First Lady?	26
2 3 4 5 6 7 8	would like. BY MR. BRENNER: Q Do you recall the nature of the conversation? A It was a ten-second hello-how-are-you, good-to-see-you. Q At that point, did you see the First Lady? A No. I don't recall whether she was present	26
2 3 4 5 6 7 8 9	would like. BY MR. BRENNER: Q Do you recall the nature of the conversation? A It was a ten-second hello-how-are-you, good-to-see-you. Q At that point, did you see the First Lady? A No. I don't recall whether she was present or not.	26
2 3 4 5 6 7 8 9	would like. BY MR. BRENNER: Q Do you recall the nature of the conversation? A It was a ten-second hello-how-are-you, good-to-see-you. Q At that point, did you see the First Lady? A No. I don't recall whether she was present or not. Q When was the last contact that you recall,	26
2 3 4 5 6 7 8 9 10	would like. BY MR. BRENNER: Q Do you recall the nature of the conversation? A It was a ten-second hello-how-are-you, good-to-see-you. Q At that point, did you see the First Lady? A No. I don't recall whether she was present or not. Q When was the last contact that you recall, discussion or writing or any other kind that you had	26
2 3 4 5 6 7 8 9 10 11	would like. BY MR. BRENNER: Q Do you recall the nature of the conversation? A It was a ten-second hello-how-are-you, good-to-see-you. Q At that point, did you see the First Lady? A No. I don't recall whether she was present or not. Q When was the last contact that you recall, discussion or writing or any other kind that you had with the First Lady?	26
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2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19	would like. BY MR. BRENNER: Q Do you recall the nature of the conversation? A It was a ten-second hello-how-are-you, good-to-see-you. Q At that point, did you see the First Lady? A No. I don't recall whether she was present or not. Q When was the last contact that you recall, discussion or writing or any other kind that you had with the First Lady? A To the best of my recollection, it would have been at a Christmas party at the White Housenot this Christmas but the Christmas before. Q So that would be the Christmas of '94? A Yes. Q Was that a large event? A There were probably 250, 300, 350 people	26

1	event?
---	--------

2 A Yes.

3 Q At that point, did you speak to Mrs.

Clinton?

A I had a very brief conversation with her, as everyone went through a receiving line and had their pictures made with the President and the First Lady.

Q And at that point, did you also speak to the President?

A Yes.

12 Q Did you have another ten-second 13 conversation with the President?

A If ten seconds.

Q Did you, when the President was Governor, have any personal contacts with the Governor and the First Lady?

A I'm not sure what you mean by personal contacts.

Q Contacts in which your job responsibilities were not the reason for your being present at a discussion.

A Not particularly.

Q When you say not particularly, were there such occasions?

A Oh, sure. There'd be periodically there'd be some type of staff party at Christmas, and occasionally maybe there'd be some type of social occasion for staff people around the Fourth of July or some holiday or something like that, where everybody on the Governor's staff would be involved, or most of them would be.

Q When you were working for Governor Clinton, approximately how often would you have contact with the Governor?

A Almost every day.

Q Were there certain issues that you reported directly to the Governor, as opposed to Betsy Wright or Maurice Smith?

A There would be occasions where I would talk directly with the Governor without having first talked to Betsy. It was a fairly open and informal working relationship in the office.

Q Were there specific issues where you were

29 1 reporting on a regular basis directly to the 2 Governor, rather than through Betsy Wright? 3 No. 4 Did you give any reports or advice to the 5 Governor about what would classically be considered 6 political matters, things not covered under your 7 general job responsibilities? 8 To the extent that there were political 9 implications from legislation that was pending, from other types of activities that might have involved 10 11 agencies that I worked with, I would certainly have 12 discussed what I perceived to be political 13 ramifications of those issues. 14 Q Do you recall any of the particular issues? 15 16 Α No. It would be any number of issues over 17 the course of the time I was in the Governor's office 18 that would have had some political ramifications for 19 one group or another. 20 Did you have frequent contact with Mrs. 21 Clinton while the President was Governor? 22 Not frequent contact. 30 1 O Was she in the office on a regular basis? 2 A 3 Q Was she in the office once a week? 4 Probably not. Α 5 O How often would you say that you'd see 6 Mrs. Clinton in the office in a given month? 7 It was fairly rare to see her in the 8 Governor's office. 9 0 Did you ever do any work at the Governor's 10 mansion? 11 Α Yes. 12 What sort of work did you do at the 13 Governor's mansion? 14 There were meetings there on a fairly 15 regular basis, particularly during legislative 16 sessions or during the time work was being done in 17 preparation for legislative sessions. 18 Why would the work on those occasions be 19 done in the mansion as opposed to the office?

Often times, meetings at the mansion were

When you were at meetings at the

in the evenings or on weekends.

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Governor's mansion, as opposed to the office, did youhave the opportunity to see Mrs. Clinton?

A On some occasions.

Q Did she ever sit in on any of the meetings?

A Yes.

Q Do you recall about which issues she sat in on the meetings?

A Certainly education issues, particularly in the fall of 1983, in preparation for the Special Session on Education that occurred that fall. She had chaired a committee that had done a lot of the ground work in preparing for that.

She participated in various meetings in subsequent years where education issues or children's issues might be involved, certainly not all of the meetings where those issues were being discussed, but from time to time, would sit in on the meetings.

Q Do you recall any meetings that she sat in on that were not education- or child-related meetings?

22 A Sure.

Q Could you explain those to me?

MR. COLE: Mark, I understand the need to get background and context from the witness, but I take it that you're going to move into an area that's within the scope of our resolution fairly directly, as opposed to exploring areas that are not within the resolution?

MR. BRENNER: Yes.

THE WITNESS: I don't recall specifically what issues, but it was not unusual for her, from time to time, to sit in on meetings that would be going on.

BY MR. BRENNER:

Q Do you recall any of the meetings?

A Not specifically at this point.

Q Did you or anyone else find that in any way to be peculiar?

A I didn't.

Q Did anybody else discuss with you what their feeling was about her attendance at the meetings?

A As far as I know, no one on the Governor's

33 1 staff found her participation at meetings peculiar. 2 How frequent was your contact with Betsy 3 Wright when she was chief of staff? 4 Everyday. Α 5 0 Did you work closely together? 6 Α Yes. 7 Would you say that your role was similar 8 to other professional staff members in the Governor's 9 office? 10 Α I'm not sure I understand the question. 11 The relationship you had with Betsy 12 Wright, was it similar to the relationship other 13 professional staff members had with Betsy Wright? 14 I had a very close working relationship 15 with Betsy. I was one of the senior staff people so 16 I probably worked more closely with her than other 17 people did. But other people had a similar working relationship that I had with her, I'm sure. 18 19 Perhaps then you could flesh out how you would describe the hierarchy. You said you were one 20 21 of the more senior people, and you stated that 22 Governor Clinton was at the top, and then Betsy 34 1 Wright was the next person in charge? 2 Α Yes. 3 0 Could you maybe flesh out a little further 4 down the chain? 5 Well, it changed from time to time. 6 Early, when I first went back in '83, the senior 7 staff people would have been Joan Roberts Watkins, 8 who was the press secretary. Carol Rasco who worked 9 primarily on health and human service type issues, and myself and Bob Nash. Joan Watkins subsequently 10 11 left the staff. Nash and Rasco and I were all on the 12 staff through the time I left in 1989. Would you say that you had more contact 13 14 than most of the other professional staff members 15 with the exception of Betsy Wright and the press secretary? 16 17 A That I had more contact with?

18 Q Governor Clinton?
19 A Probably Watkins, Rasco, Nash, and I had
20 more or less the same amount of contact probably.
21 Q Did you do any work for any of the Clinton

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Q Did you do any work for any of the Clinton gubernatorial campaigns?

35 1 Not other than menial campaign-type work. Α 2 Could you describe the work that you did 3 for the campaign? 4 I stuffed envelopes and did that sort of 5 thing. I did not have an official role in any of the 6 campaigns. 7 Did you have any discussions with the 0 Governor about the campaigns? 8 9 Sure. Α 10 MR. COLE: Mark, can we go off the record 11 for a moment, if you don't mind? MR. BRENNER: Sure. 12 13 (Discussion off the record.) 14 (Recess.) MR. BRENNER: We can go back on the 15 16 record. 17 BY MR. BRENNER: 18 I was asking, I don't recall the answer, about discussions you had with the President about 19 his gubernatorial campaigns. Did you have those 20 21 discussions with the President? 22 I'm sure I had various conversations about 36 the campaigns during each and every one of the 1 2 campaigns. 3 Did you work on the President's 4 presidential campaign? 5 I did a little bit of work, not much. 6 0 Could you describe the nature and extent of that work? 7 8 I did some work with Betsy Wright on 9 preparing responses to various questions that were 10 raised on a couple of utility issues, and on some 11 questions that she was dealing with members of the 12 press on involving ethics legislation that passed 13 during the President's administration as Governor. 14 Do you recall the utility issues? 15 It largely had to do with the Grand Gulf 16 Nuclear Generating Unit owned by Entergy. 17 I wanted to move forward in terms of your appointment to the Public Service Commission. Could 18 19 you explain briefly the background of how that came 20 about? 21 I had indicated an interest to then Α 22 Governor Clinton in being considered for an

1 appointment to that Commission and he appointed me to 2 it 3 Was this one conversation? 0 4 Α Oh, I had several conversations with him 5 over a period of a few months, I'm sure. I was curious. You mentioned utility 6 7 issues and Grand Gulf. Were there other utility 8 issues? 9 Α In terms of what? 10 In terms of Betsy Wright and the campaign? O I think Grand Gulf was the main thing. 11 Α 12 Q Was there any less main thing? 13 Not that I recall. Α 14 0 Have you ever heard of a company called 15 Castle Sewer and Water or Castle Water and Sewer? 16 Α Yes. 17 O When did you first hear of them? 18 Probably shortly after, late in or shortly 19 after the legislative session in I believe it was 20 1987. 21 0 When you say legislative session, you mean 22 the non-special legislative session? 38 1 The regular session of the Arkansas 2 General Assembly in 1987. 3 How did Castle Sewer and Water come to 4 your attention? 5 The Governor had vetoed a piece of 6 legislation that would have deregulated small water 7 and sewer companies that fit into a very limited 8 definition contained in the bill. After it was 9 vetoed. I subsequently became aware that it would have pertained to Castle Water and Sewer. 10 11 You stated you worked for Jim Guy Tucker. 12 Did you know if Jim Guy Tucker had an investment in Castle Sewer and Water, or Castle Water and Sewer? 13 14 No. A 15 Did you have any discussions with Mr. Tucker related to the veto or the proposed 16 17 legislation for the Special Session? 18 I had a conversation or two with him 19 subsequent to the veto of the legislation. 20 Did you have conversations with anybody 21 else related to either the vetoed legislation or the

subsequent legislation which passed the Special

39 1 Session? 2 A It is my general recollection, but I don't 3 recall the specifics of it, but I probably had at least one conversation with R.D. Randolph. 4 5 Who is R.D. Randolph? A R.D. Randolph was the owner of Castle 6 7 Water and Sewer, or at least my impression was that 8 he was the owner. 9 What else at that time did you know about 10 R.D. Randolph? 11 I didn't know much about him specifically. 12 I'd heard his name before. 13 How did you become aware that the 14 legislation which was vetoed applied to Castle? Probably in a conversation with Randolph, 15 I imagine, or with Governor Tucker. But I think 16 17 probably first from a conversation with Randolph. 18 Did you know R.D. Randolph before your contacts with him on this issue? 19 I'd met him once or twice but I didn't 20 21 know him. 22 Q Do you recall how you met him? 40 1 A No. not particularly. I think I met him 2 somewhere in and around the capital. 3 Q Did you look at House Bill 1780, which is 4 the vetoed legislation, at any time before the 5 President vetoed it? 6 Yes. Α 7 When was that? 0 8 I don't recall specifically when I first looked at it, probably at some point during its 9 10 passage through the General Assembly. Did you have discussions during that time, 11 12 during that preliminary stage with any members of the 13 legislature? 14 Α I don't recall that I did. 15 Any of their staffers? 16 Α I don't recall whether I did or not. 17 Do you recall having discussions with 18 anyone from the Public Service Commission, either 19 staff or a member? 20 I did talk with then Commission Chairman

Robert Johnston about the bill on at least one

41-384 97 - 20

occasion perhaps.

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41 1 0 What prompted you to have that discussion? 2 Because it pertained to the Public Service Commission's jurisdiction. And where legislation 3 pertained to the operation of an agency, it would be 4 5 my normal practice to talk with the agency personnel about the pending legislation. 6 Did the agency personnel support the 7 8 legislation? 9 Α Johnston had some concerns about the bill, 10 as I recall. 11 O Do you recall what those concerns were? 12 Α Not specifically. Did you make any recommendations that then 13 0 Governor Clinton about the bill? 14 I ultimately recommended that the bill be 15 Α 16 vetoed. 17 0 Why did you make that recommendation? 18 Α Because it was, in my view, special and 19 local legislation in contravention of a provision of the Arkansas Constitution that prohibits passage of 20 special and local legislation. 21 22 Could you explain briefly what that is? 42 1 Α What special and local legislation is? What special and local legislation is and 2 0 3 the constitutional provisions. I don't recall what article and what 4 5 section offhand, but there's a provision that prohibits passage of special and local legislation. 6 7 The legislation, as I recall, in question would have 8 applied to small water and sewer companies that were 9 located within so many miles of a first class city 10 with a population in excess of 130,000 or 150,000. 11 In essence, it was written in such a way that it 12 would be limited to a very small number, perhaps one. but clearly a very small number of small water and 13 14 sewer companies, and would not have applied to similarly situated water and sewer companies that 15 16 weren't located within x miles of a city of the first class with 150,000 people or whatever it was. 17 18 So you recommended the veto on the basis 19 of the fact that you believed the bill to be 20 unconstitutional?

21 That's correct. 22

Did you talk to Jerrell Clark,

1 J-E-R-R-E-L-L, or Doug Strock, about the proposed 2 legislation? 3 I may well have talked to Jerrell. I A 4 don't recall that I talked to Strock. 5 Do you recall whether or not Mr. Clark 6 supported the legislation? 7 I think Jerrell had some concerns about it 8 is my recollection. I'd like to show you Exhibit 1 which is 9 Bates stamped DKSN 024749 through DKSN 024802. It's 10 a high security document memorandum to Jerrell Clark 11 from Doug Strock about proposed legislation for 1987. 12 13 It's dated June 24, 1986. I'd like specifically to turn your 14 attention to page two, which is DKSN 024750, and 15 16 under the heading "E". 17 (Handing document to witness.) BY MR. BRENNER: 18 19 If you could read that to me. Divest PSC of jurisdiction over small 20

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not meeting the criteria for class A companies. The bill allows the customers of such utilities to condemn the facilities, if necessary, by forming a suburban improvement district to compensate for whatever protection is currently afforded by PSC jurisdiction, assuming that PSC has jurisdiction.

water and sewer companies, this bill redefines public

utility to exclude small water and sewer companies

Q Thank you.

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So when you said that the people you spoke to from the Public Service Commission had concerns about the legislation, I guess I'm a little confused, because it seems to me that according to this memo, this is legislation that they may in fact be supportive of?

A Well ultimately Johnston indicated the Commission was supportive of the legislation that finally passed that was applicable to all small water and sewer companies.

Q So the legislation that finally passed was markedly different from the legislation 1780?

A Well, it basically exempted from PSC jurisdiction, as I recall, all small water and sewer companies that met a certain definition, rather than

45 1 merely applying to a very limited number, which 1780 2 did 3 And what the Strock memo refers to 4 apparently would be a type of situation where the jurisdiction of the PSC would not be applicable if 5 6 the small water and sewer system in essence was owned 7 by all its customers. I think that's the reference 8 to some type of improvement district, which is a different thing than exempting those that might have 9 10 other ownership forms. 11 After the veto of the legislation, do you 12 recall when the veto of House Bill 1780 occurred? 13 Not specifically. It was very late in the legislative session or perhaps after the session had 14 15 concluded. 16 0 Were there other staff members involved in 17 making the veto recommendation? I don't recall whether there were or not. 18 19 Looking at the first legislation which was 20 vetoed, were there any other companies that you 21 recall, other than Castle Sewer and Water, that the legislation applied to? 22 46 1 I don't recall now whether there were any Α 2 others. 3 0 After the bill was vetoed, do you recall 4 your next contact with anyone who wished to revisit 5 the issue of the veto and possible frame new 6 legislation for a special session? 7 I think the first conversation that I 8 probably had with anybody else was a conversation 9 with R.D. Randolph. 10 Do you recall how that conversation came 11 about? 12 Α No. 13 0 Do you recall when that conversation 14 occurred? 15 Some time fairly shortly after the 16 legislation had been vetoed. 17 You stated that the veto occurred toward 18 the end or at the end of the legislative session or

That sounds right. 0 I would like to show you what's been

March or early April?

thereabout. Would that be approximately in late

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601 47 marked as DKRT 800572, produced by the RTC to the 1 House Committee on Banking and Financial Services, 2 3 and it's now public record. 4 (Handing document to witness.) 5 BY MR. BRENNER: 6 Could you describe that document for me, 7 please? 8 Well, it's a memorandum to B.C. from N.H. A Who are B.C. and N.H.? 9 O I would assume B.C. is Bill Clinton, and 10 Α N.H. is Nancy Hernreich. 11 12 Who is Nancy Hernreich? 0 At that time she was the staff person on 13 A the Governor's staff that was responsible for 14 scheduling the Governor's time appointments. 15 Could you spell her name for the record? 16 Q H-E-R-N-R-E-I-C-H, I believe. 17 Α 18 What was her position exactly? 0 She was the Governor's scheduling staff 19 Α 20 person. 21 And this is dated April 14th? 0 22 Α Yes. 48 1 Do you see handwritten or a photocopied version of handwritten words or letters at the bottom 2 left and bottom right hand corners of this document? 3 4 Α Yes. 5 Do you recognize the handwriting? 0 6 The handwriting on the bottom right 7 appears to be Betsy Wright's handwriting. 8 And the handwriting on the bottom left? 0 9 I'm not sure whose handwriting it is. Α 10 I understand there's a large CONFIDENTIAL 11 stamp across the front of the note, but could you read, to the best of your ability? 12 13 Mr. Randolph dropped by to --14 May be see you. 0 -- see you this morning to talk to you 15 16 about the water bill you vetoed. He said that he 17 talked to you on Sunday morning. He wants to know if

there. I can't read it.
He said that he has a difficult time

call Jim Guy Tucker.

18 19

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the veto is going to stand. He would like you to

I don't know whether there's another word

49 1 getting an answer from -- blanked out --. He 2 mentioned a meeting between you, Tucker, and McDougal 3 -- blanked out -- of years ago, which involved \$33,000. This was pretty -- again blanked out -- he 4 5 seemed angry. Someone, I think he prefers you --6 something blanked out -- call Tucker. 7 And CC SB 415 down in the left hand corner 8 is a copy that you received? 9 I assume so. 10 And in the lower right hand corner, could 11 you indicate what that might say? See if Sam could call him. I think is what 12 13 it seems to say. Do you recall calling R.D. Randolph? 14 15 A I had a conversation. I recall generally having a conversation with Randolph. I don't 16 remember whether it was on the phone or whether it 17 18 was in the office. 19 0 Do you recall seeing this memo? 20 I'm sure I did. Α 21 In a case like this, how would you get 22 this memo? What was the chain? 50 1 A I assume it would have been in my in box. 2 Did you have only one conversation with 3 Mr. Randolph? 4 I don't remember I had one conversation 5 with him, or perhaps a second one. 6 Could you describe the conversation to the 7 best of your recollection? 8 I only generally have a recollection that 9 he was very upset that the legislation had been 10 vetoed. I think his point was that it had passed 11 more or less without opposition and he didn't 12 understand why the Governor felt it necessary to veto 13 it if it had passed without any particular 14 opposition. 15 O What did you say to him? 16 That the legislation had been vetoed 17 because of a constitutional problem. 18 At that point, did you enter into any 19 discussions about possibly tailoring a new bill? 20 I don't recall whether I did or not. 21 Was your contact with Mr. Randolph

prompted by this phone message, this contact message?

51 I don't recall whether I had already had a conversation with Randolph before that or not. I 2 think there's some possibility that he may have 3 talked to me before he talked to the Governor. But 4 5 it's been so long. I don't recall that for sure. 6 Do you recall, or do you know what he's 7 talking about when he talks about the \$33,000? 8 No. I don't. Have you come to learn through any method 9 10 what the \$33,000 was? 11 Α No. 12 Have you ever talked to Mr. Tucker about 0 the \$33,000? 13 14 Α No. 15 Have you ever talked to Mr. McDougal about the \$33,000? 16 17 Α No. 18 Have you ever talked to Betsy Wright about the \$33,000? 19 Not that I recall. 20 Α 21 0 Have you ever talked to then Governor 22 Clinton about the \$33,000? 52 1 A No. 2 Was there any discussion that you'd become aware of about the \$33,000 mentioned in this memo? 3 Not that I have any recollection of. 4 Α 5 Did you talk to Mr. Tucker about the 0 6 vetoed legislation? 7 Yes, I did. A Do you recall when that was? 8 0 9 Some time after the date of that memo I'm Α 10 sure. 11 Q Would it have been in the spring of 1987? 12 I assume it would have been some time 13 shortly after the date of that memo, I would think. 14 Do you recall the substance of the 15 conversation you had with Mr. Tucker? 16 I think I had one, possibly two, 17 conversations with him that were in the general nature of what could be done to enact legislation 18 19 that would address the constitutional problem.

Why are you certain that you spoke with

That's my recollection at this point. I'm

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21 22 Mr. Randolph first?

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not absolutely certain, but I think that we heard 1 from Randolph immediately after the bill was vetoed. 2 3 And it is my general impression that he talked to me 4 before he talked to the Covernor. That would 5 normally, if someone had called expressing concern about what we had done, either signing or vetoing a 6 bill, that that call would actually have been routed 7 8 to me. And I think it was probably accurate that if he was not satisfied with the answer he got from me. 9 that he would have talked to the Governor. I don't 10 11 recall that specifically, but I think that is 12 probably what happened. So Mr. Tucker wasn't satisfied with his 13 discussion with you about the veto? 14 15 I was referring to Randolph. I understand. 16 0 When you spoke with Mr. Tucker, do you 17 recall what prompted you to call? Did you call Mr. 18 19 Tucker? 20 Yes, I believe I called Mr. Tucker, I Α think the reference in the memo to see if Sam could 21 22 call him was a suggestion that I call Tucker, not 54 1 call Randolph. I think I called him. He may have 2 called me, but I believe I may have called him. 3 Did you have only one conversation with Mr. Tucker about this? 4 5 Probably at least two, maybe three. Were there any documents exchanged between 6 7 you and Mr. Tucker? Not that I recall at this point. 8 Do you recall seeing a letter -- and I'll 9 show it to you. It doesn't have a Bates stamp. It's 10 11 April 24th, 1987 letter to the Honorable Bill 12 Clinton, Governor on Mitchell, Williams, Selig & Tucker stationery from Jim Guy Tucker. 13 14 (Handing document to witness.) BY MR. BRENNER: 15 That's regarding House Bill 1780 which is 16 17 the vetoed legislation. 18 (Pause.) 19 I'm sure I probably did. I don't recall it specifically but I'm sure I did. 20 At the bottom of the first page, the last 21 sentence, "if the member of your staff who suggested 22

		55
1	a veto has any questions or desires, revisions in its	
2	form, we certainly hope Representative Walker,	
3	Representative Wilson, R.D. or I will be given the	
4	opportunity to respond."	
5	Were you that member of the staff?	
6	A I'm sure I was.	
7	Q Did you discuss the veto or the subsequent	
8	special session legislation which is Act 37 of 1987	
9	with Representative Wilson or Representative Walker?	
10	A I don't recall specifically talking with	
11	either Representative Walker or Representative	
12	Wilson. I probably did talk to Representative	
13	Wilson.	
14	Q Did you draft what eventually became Act	
15	37 of 1987?	
16	A I don't believe I did.	
17	Q I'll just show you what's been marked as	
18	DKSN 024856 through DKSN 024859. It's Act 37 of	
19	1987, House Bill 1047.	
20	(Handing document to witness.)	
21	THE WITNESS: Yes.	
22	BY MR. BRENNER:	
		= (
		56
1	Q Do you recall discussing with anyone this	56
1 2	Q Do you recall discussing with anyone this bill, this Act?	56
		56
2	bill, this Act?	56
2 3	bill, this Act? A I don't recall specific discussions, but	56
2 3 4	bill, this Act? A I don't recall specific discussions, but I'm sure I did.	56
2 3 4 5	bill, this Act? A I don't recall specific discussions, but I'm sure I did. Q Who would you have talked to about that?	56
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1 vetoing a bill. 2 You prepared the Governor's message on the 3 veto of 1780? Yes, I believe I did. 4 5 When you reviewed legislation, did you have a standing practice in terms of did vou 6 memorialize to the Governor in writing your 7 recommendations? 8 9 In a regular session of the General Assembly, it was the normal practice that there would 10 be a comment sheet for every piece of legislation 11 12 that would be assigned to some staff member to review 13 it, and there would be some comment by that staff member including a letter grade from A to F on that 14 15 coversheet. 16 We did not always do that in a special 17 session. I think we did most of the time. 18 0 How often did you have special sessions? 19 We probably averaged a special session at 20 least once a year. 21 How many bills would be reviewed during a 22 special session on average? 1 It's hard to say on average. Α 2 I'll ask a more direct question. 3 How many bills were reviewed in 1987 4 during the special session? I don't recall offhand. There may have 5 6 been -- I don't know how many items were on the call. 7 I'll have to go back to the other question 8 of, on average, how many bills? 9 Sometimes a call could have as few as maybe ten or 12 items. Sometimes a call might have 10 11 40 or 50 items, so it's hard to say what an average 12 would be. 13 Q Did Governor Clinton express to you his willingness to work out a compromise that would be 14 suitable to Jim Guy Tucker and R.D. Randolph with 15 16 regard to Act 37? 17 I don't recall a specific conversation and

18 what was said. Obviously that did occur because that
19 legislation was considered in special session, which
20 meant it would have been put on the call for the
21 special session by the Governor when he called the
22 session.

		59
1	Q Was the special session just for this	
2	bill?	
3	A No.	
4	Q Do you recall the other issues or other	
5	bills that were addressed in the '87 special session?	
6	A It is my recollection that the primary	
7	reason that session was convened was to deal with an	
8	income tax credit for contributions to institutions	
9	of higher education that the Governor had signed	
10	during that regular session, but that subsequent	
11	information about that legislation led the Governor	
12	and officials of the Department of Finance	
13	Administration to conclude that it would have had a	
14	much more significant fiscal impact than originally	
15	had been anticipated. And the primary reason for	
16	convening that session was to revise that piece of	
17	legislation.	
18	Q Did you discuss with anyone else, other	
19	than the Governor, your discussions with R.D.	
20	Randolph and Jim Guy Tucker?	
21	A I'm sure I probably talked to Betsy about	
22	it.	
1	O Did Daton miles to man the desire of the	60
1	Q Did Betsy relay to you the desire of the	
2	Governor or her desire to work out a compromise with	
3	Jim Guy Tucker and R.D. Randolph?	
4	A I don't recall the specifics of the	
6	conversation I had with Betsy in which she indicated what her desires were.	
7	Q Do you recall generally if she indicated	
8	what her desires were?	
9	A No.	
10	Q Did you have discussions with anyone else	
11	other than in the Governor's office or Mrs. Clinton?	
12		
13		
14	A I don't recall having talked with Mrs.	
	A I don't recall having talked with Mrs. Clinton about it. I may have talked with somebody	
	A I don't recall having talked with Mrs. Clinton about it. I may have talked with somebody else from the Governor's staff, but I don't know who	
15	A I don't recall having talked with Mrs. Clinton about it. I may have talked with somebody else from the Governor's staff, but I don't know who that would have been.	
15 16	A I don't recall having talked with Mrs. Clinton about it. I may have talked with somebody else from the Governor's staff, but I don't know who that would have been. Q Was there normally somebody else that you	
15 16 17	A I don't recall having talked with Mrs. Clinton about it. I may have talked with somebody else from the Governor's staff, but I don't know who that would have been. Q Was there normally somebody else that you would talk to about these things?	
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have. But in this instance, I had the liaison responsibility with the relevant agency.

Q Why was there a need for you to find a compromise if you viewed your original constitutional decision as a good one?

A Well, the objection was to the bill as it was drawn to limit the exemption to a very limited number of companies.

As had been indicated in the Strock memo, the Public Service Commission had previously entertained some thoughts about deregulation of small water and sewer companies in some general way.

Q But you also indicated that in your discussions with the Public Service Commission that they did have concerns about it.

A It is my recollection that Robert Johnston had some concerns about the bill that was vetoed.

It is also my recollection, as I previously indicated, that the bill that provided a general exemption was supported by the Commission.

Q What were his concerns about the first bill which was vetoed?

A It's my recollection that he thought we ought to either regulate all of them or get out of the business of regulating very small water and sewer companies.

Q Was it the position taken by the Public Service Commission, as a general rule, that less regulation in the 1980s was preferred?

A No.

Q During the 1980s, would the Arkansas Public Service Commission more frequently regulated or moved toward regulation or moved toward deregulation?

A I don't believe either at that point.

Q You think during the 1980s there was no change in the amount of regulation that the Public Service Commission was undertaking?

A Not particularly.

As a matter of general philosophy, the concern with small water and sewer companies was that for the very small companies, the cost of going through a rate proceeding might well, which the company could then recover in rates, might well

exceed any benefits afforded the customers by PSCiurisdiction.

Q Was this move toward deregulation unusual?

A Well the concern was limited to a very limited type and size of company.

Q In terms of compromises, there are certainly many levels of compromise. It would seem to me that the Public Service Commission would take a position that it was better to decrease the amount of regulation, rather than to strip them of any authority for regulation.

A I don't know what the preference of the Commission might have been for a range of options.

What I know is that, based on my recollection at this point, is that when the revised legislation was produced for the special session, that Robert Johnston communicated to me that the Public Service Commission was not opposed to that legislation.

Q Did they indicate their support?

A They indicated that they would not be taking any position, and that they did not oppose it,

1 is my recollection. 2 O Which, as

4 5

Q Which, as you understand it, is not their support of the legislation?

A It was not uncommon for agencies to just take a no-position.

Q The question is, this was definitely not support of the legislation by the Public Service Commission? Is that correct?

A It is my impression that Robert Johnston, as Chairman of the Commission, who I talked to -- I don't recall that I talked to the other members of the Commission -- thought that the Commission would be better off not spending time and resources trying to identify and set rates for small water and sewer companies.

Q I already showed you the Jim Guy Tucker letter which is dated April 24th, 1987?

A Yes.

Q When you prepared the veto message on 1780, did you at that point or any point before your discussions with Jim Guy Tucker, consider working on new language which would fit within the constitution?

I don't recall that I did.

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So it would be fair to say that your 0 discussions with Jim Guy Tucker and the President's referring this issue to you to take care of was what prompted you to reach a compromise?

It is my recollection that the legislation was vetoed very, very late in the session, or perhaps even after the session was over, which is why there wasn't another bill introduced in that session by the people who were interested in the passage of the original bill.

O Okay. But in other words, neither of the legislators that sponsored the original bill, or nobody else contacted you about the bill.

What prompted you to find a compromise was what you indicated earlier, the President appeared as if he'd like to work something out. Is that correct?

I think that saying that then Governor Clinton wanted to work out a compromise is not necessarily an accurate characterization.

I think a more accurate characterization 22 was that if the proponents of the legislation could

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craft an alternative that avoided the constitutional defects in the original bill, that he would be willing to consider including it in a special session at some point in the future.

Are you aware of any discussions between Governor Clinton and R.D. Randolph about this?

No, I'm not. A

Are you familiar with -- have you come to have any knowledge of any discussions between Governor Clinton and Jim Guy Tucker about the Castle Sewer and Water legislation?

Not that I recall directly. It's certainly possible that they talked but I don't recall one way or another.

Just to be clear, I'm not asking whether or not you heard it from the Governor directly. I'm asking even if Betsy Wright or some other third party mentioned that conversation, if there was that conversation, to you?

I don't specifically recall.

21 (Pause.) 22

MR. BRENNER: Can we go off the record?

67 1 (Discussion off the record.) 2 (Recess.) 3 MR. BRENNER: Can we go back on the 4 record? 5 BY MR. BRENNER: 6 0 You wrote the veto message on 1780, do you 7 recall? 8 A That's my recollection. I normally wrote 9 the veto messages. 10 O Did anyone else give any input on this 11 legislation in the Governor's staff or anyone else? 12 Another person who I would have talked 13 some about it probably was Joan Vehik. 14 Q And who was that? 15 Joan Vehik is a lawyer by training who does not practice, but for a number of years has 16 17 worked legislative sessions for various Governors, 18 going back I think to when David Pryor was Governor, 19 as the person who interacted with the General 20 Assembly in receiving bills, logging them in, taking 21 care of all the mechanics of making sure all the 22 process was appropriately accounted for. And Vehik 68 1 and I were normally the people who took legislation 2 in to be signed or vetoed by the Governor. So I'm 3 sure I would have talked to Vehik some about the bill 4 just because we generally talked about. And was his impression the same as yours? 5 0 6 She, Joan. A 7 I thought you said John. I apologize. Q I don't recall. I think it probably was. 8 A 9 Q Could you spell. 10 V-E-H-I-K Α 11 0 In the veto message, or at the time of 12 drafting the veto message, did you at that point 13 consider other possible legislation to fill this 14 niche? 15 Not that I recall. As I previously said, 16 it's my recollection it was very late in the session, 17 or perhaps the session was already over. 18 Just to be clear, because I'm not sure

A It's my recollection that the first time I

in the outcome of the legislation?

that I was earlier, when did you first become aware

that R.D. Randolph or Jim Guy Tucker were interested

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		69
1	knew of either of their interest was after the bill	
2	had been vetoed.	
3	Q I showed you a letter earlier dated	
4	April 24, 1987, from Jim Guy Tucker to Bill Clinton,	
5	and we discussed it.	
6	I'd like to show you at this point a	
7	letter dated April 27, 1987 on Castle Sewer and Water	
8	Corporation stationery, to Mr. Jeffrey B. Stern at	
9	Intersoll & Block from Jim Guy Tucker.	
10	(Handing document to witness.)	
11	BY MR. BRENNER:	
12	Q I would ask that you read below "Dear	
13	Jeff,"	
14	A Governor Clinton vetoed HV 1780. He has	
15		
	told R.D. Randolph and the sponsors that the veto was	
16	an error he will correct if there's a special	
17	legislative session. Such a special session is	
18	generally expected but not guaranteed. If held, it	
19	could come as early as June or as late as September.	
20	This legislation is needed critically for the	
21	utility. I suggest we complete our contract, execute	
22	it, and wait to see if a session develops.	
		70
	T 60	
1	Effectiveness of the contract will depend on the	
2	enactment of the legislation.	
2	enactment of the legislation. Q Thank you.	
2 3 4	enactment of the legislation. Q Thank you. I asked you earlier whether or not you	
2 3 4 5	enactment of the legislation. Q Thank you. I asked you earlier whether or not you knew if R.D. Randolph had talked to Governor Clinton.	
2 3 4 5 6	enactment of the legislation. Q Thank you. I asked you earlier whether or not you knew if R.D. Randolph had talked to Governor Clinton. I was hoping this might refresh your recollection	
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2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20	enactment of the legislation. Q Thank you. I asked you earlier whether or not you knew if R.D. Randolph had talked to Governor Clinton. I was hoping this might refresh your recollection that perhaps there was a conversation between Governor Clinton and R.D. Randolph? A I simply don't remember whether anybody told me that there was or not. It wouldn't surprise me at all if there was a conversation. I simply have no recollection at this point of knowing whether there was or not. Q When you spoke to Jim Guy Tucker about the legislation, did he mention to you any of the facts surrounding his purchase of the Castle Sewer and Water? A Not that I recall at this point. Q Did he make any statements to you or	

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1	A Not that I recall.	
2	Q Has anybody else mentioned to you or made	
3	representations to you that there may be a problem	
4	for the Rose Law Firm or for Hillary Clinton should	
5	what became Act 37 not pass?	
6	A Not that I recall.	
7	Q I'd like to show you a memo from the	
8	Office of the Governor, DKRT 800574A. It appears to	
9	be a memo from you to the Governor. The subject is	
10	Sewer District Regulation Legislation, Jim Guy	
11	Tucker, R.D. Randolph, Mike Wilson, Bill Walker.	
12	(Handing document to witness.)	
13	BY MR. BRENNER:	
14	Q Could you please take a look at that?	
15	MR. PORTNOY: Could you tell me again the	
16	date on that?	
17	MR. BRENNER: May 19, 1987.	
18	(Pause.)	
19	THE WITNESS: Yes.	
20	BY MR. BRENNER:	
21	Q Do you recall writing this memorandum?	
22	A I don't specifically recall writing it.	72
1	Q Does this reflect a memorandum you may	12
2	have written?	
3	A Yes.	
4	Q Could you read for me the last paragraph	
4 5	Q Could you read for me the last paragraph of the memorandum?	
4 5 6	Q Could you read for me the last paragraph of the memorandum? A According to Tucker, if the legislation	
4 5 6 7	Q Could you read for me the last paragraph of the memorandum? A According to Tucker, if the legislation exempting certain water and sewer companies from PSC	
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73 1 scrutiny of FSLIC and is no longer controlled by 2 McDougal. 3 0 Do you see the initials on the lines next 4 to Sam? 5 Α Yes. 6 0 Are those your initials? 7 Α Yes. 8 Is that your writing? 0 9 Α It appears to be. 10 0 I asked you just a few minutes ago about 11 the possibility of litigation that may have in some 12 way involved the Rose Law Firm or Hillary Clinton. 13 Does this refresh your recollection at all 14 about your discussion with Jim Guy Tucker? 15 I don't recall the Rose Law Firm or 16 Hillary Clinton being mentioned in the context of the 17 litigation or potential litigation that's referred 18 to. 19 At the time, May 19, 1987, did you know 20 who Jim McDougal was? 21 Α Yes. 22 0 How did you know that? 74 1 He had worked on Clinton's staff during 2 Clinton's first term as governor for a period of 3 time. 4 0 What else did you know about Jim McDougal? 5 Α I knew who he was. 6 0 When you say you "knew who he was..." 7 I knew he owned Madison. Α 8 Did you know that he was a partner or an 0 9 investment partner with the Clintons in any ventures? 10 I was generally aware. Α 11 -0 How were you made generally aware of that? 12 A I don't recall. MR. COLE: Just so the record's clear, 13 14 that was something you knew at the time of this 15 memorandum, or something you learned subsequent to 16 that time? 17 THE WITNESS: I think I probably knew it 18 at that time. 19 BY MR. BRENNER:

Do you recall how you came to prepare this

Well, I assume it is a follow-up to the

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memo?

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memo, the April memo that had been copied to me, with 1 a direction for me to call Tucker. 2

So my question really is, where did the information come from that you put in this memo?

I assume it largely came from my conversation with Jim Guy Tucker.

Were there any other sources of information?

I don't recall.

Was it possible that R.D. Randolph was 10 11 another source of information?

I think most of what is in this 12

13 information that is contained in this memorandum was

based on one or more conversations I had with Jim Guy 14

15 Tucker. There may have been some part of it that I

got from an earlier conversation with Randolph, but 16

it is my general recollection that Randolph was not 17

very specific in the conversation I had with him 18

about what problems were being created by the veto of 19

the legislation; merely that it was creating 20

21 problems.

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> 0 Why would litigation be an important issue

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to mention to the governor in this matter?

I was simply providing the governor with all the information that had been provided to me regarding the background of the legislation.

When Tucker mentioned it to you, what was your impression of why Tucker thought making these statements about litigation against McDougal would be important?

My recollection is that simply it was providing me with the background on why the 10 legislation had been proposed. 11

12 Were you aware at the time of preparing this memo that the Rose Law Firm had represented 13 Madison Guaranty on issues relating to the sale of 14 15 the Castle Sewer and Water utility?

Not to my recollection.

Did Mr. Tucker perhaps mention to you in any way Mrs. Clinton's involvement, or the Rose Law Firm's involvement with Mr. McDougal in Castle Sewer and Water?

20

A Not that I recall.

Did you copy Betsy Wright on this memo?

77 1 No. But I'm sure she probably saw it. Α 2 Did Betsy Wright ever mention to you 0 3 anything related to the information in the memo? 4 She and I probably talked about it at some Α 5 point. 6 Do you have any recollection of that 0 7 conversation or of any back-and-forth documents? 8 Α No 9 Did Jim Guy Tucker make any mention to you of the Rose Law Firm or Hillary Clinton in any 10 11 discussions you had with him related to Castle Sewer and Water or the veto? 12 13 Not that I recall. 14 Did Mr. Tucker present to you at any time 15 a copy of proposed legislation to perhaps fill the 16 constitutional requirement that the previous 17 legislation failed? I don't recall specifically. But I would 18 19 imagine that at some point before the item was put on 20 the call for the special session, I would have seen a 21 copy of the proposed legislation either from Tucker. 22 from Mike Wilson, or from legislative counsel's 78 1 staff 2 I'm sorry. Who's Mike Wilson? 0 3 Α He was the lead sponsor of the original 4 bill. 5 Was it often the case when you were dealing with legislation that individuals who sought 6 7 to have legislation passed would mention potential 8 litigation should the bill fail? 9 A If that had some relevance to the 10 legislation, it certainly wouldn't have been 11 uncommon. 12 Did you see the relevance here to Mr. 13 Tucker's mention of litigation? Did it have an 14 impact on you? 15 MR. COLE: You mean beyond what the memo 16 says in this instance? The memo speaks for itself. 17 MR. BRENNER: Yes. 18 BY MR. BRENNER: 19 Q I'm trying to determine, in terms of your 20 conversation or conversations with Mr. Tucker, what

would prompt him or what would make think that it

would trigger in you a response that he mentioned

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potential litigation against Madison?

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A As I said before, my conversation with him was to get a complete background of why the legislation had been introduced in the first place.

Would it make a difference to the governor that there would be litigation between two private parties in terms of deciding to veto the legislation?

I don't know whether it would or not.

Did the governor prior to this make any statements that you know of that said that he supported low-cost, good service -- utility services?

12 Sure, in a very general way involving 13 issues that had been pending before the Public 14 Service Commission when he'd been attorney general. 15 and he represented ratepayers; and probably in other campaign issues where utility issues were a campaign 16 17 issue.

18 MR. COLE: Would you be surprised if he said that he supported high-cost, poor services from 19 20 utilities?

(Laughter.)

BY MR. BRENNER:

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1 I ask that because I wanted to know if the 2 then-governor ever mentioned to you that he had had discussions or contacts or communications with R.D. 3 4 Randolph between the years 1982 and 1984 in which he 5 and Mr. Randolph discussed the governor's stance in favor of regulation of these utilities to provide 6 7 low-cost service? 8 I don't recall any such conversation with 9

the governor.

(Pause.)

O Did Mr. Tucker at that point explain to you in any way the relevance of the litigation between the two private parties in terms of the legislation?

To the extent that it's reflected in this memo, clearly he explained the background of it. I don't have any recollection that there was any explanation beyond what's set forth in the memorandum.

You stated earlier that you knew Jim McDougal, and you knew that he owned the bank.

What was your understanding of his

relationship to Governor Clinton?	
A I knew that they knew each other, and I	
was aware at some point probably prior to the date	
of this memorandum that then-Governor Clinton and	
the First Lady were involved in some type of land	
deal that involved McDougal.	
Q With regard to their relationship, in your	
discussions with Mr. Tucker, did Mr. Tucker's mention	
·	
of Mr. McDougal prompt in you a memory of your	
knowledge of the relationship between Governor	
Clinton and Mr. McDougal?	
A Not that I recall.	
Q Had you seen Mr. McDougal in the office at	
any time?	
A I'm sure I did.	
Q Approximately how often would Mr. McDougal	
come to the governor's office?	
A Fairly rarely.	
Q When you were at the governor's mansion,	
as you mentioned, there were often meetings at the	
governor's mansion.	
Did Mr. McDougal ever stop by the	
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governor's mansion?	82
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83 1 the General Assembly. Many of those had fairly limited focus, and I'm sure over the years that there 2 were several of them that had to do with trying to 3 address private disputes. 4 5 BY MR. BRENNER: 6 This is the only one that you can remember specifically. I'm curious if you have any 7 recollection of any other situations where one party 8 would come to you recommending a certain action on 9 10 legislation, and mentioned specifically by name parties that they believe have a connection in some 11 way to the governor. 12. 13 I don't recall. Δ But you do know -- do you remember when he 14 mentioned McDougal's name that that prompted in you 15 knowledge that McDougal and Clinton were involved in 16 17 a business relationship? I don't know that it prompted a 18 recollection of that. 19 20 But at that time, you did know that they 21 had a business relationship? I knew at some point along in this period 22 84 of time, perhaps before this, perhaps shortly 1 thereafter, that there was some type of business 2 3 relationship. Did Mr. Tucker in any way stress the fact 4 that Mr. McDougal would be involved in the litigation 5 6 as an issue? 7 Not that I recall, beyond laying out the 8 background as set forth in the memo. 9 MR. COLE: Did Mr. Tucker mention the 10 Whitewater investment, or the fact that Mr. McDougal and Governor Clinton had an interest in Whitewater? 11 12 THE WITNESS: Not that I recall. 13 BY MR. BRENNER: 14 I assume from the first paragraph of the memo that you have in front of you, there was an 15 16 issue. "The S&L subsequently learned that it could not legally own and operate a utility company, and 17 therefore the company was sold to R.D. Randolph for 18 the purposes of acquiring this utility. 19 20 The problem arises from the fact that the

utility is legally subject to regulation, but the

Public Service Commission is prohibited from ..." --

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		0)
1	can you read that?	
2	A I think it probably says "mortgaging	
3	utility property without permission of the	
4	Commission."	
5	Q Can you continue?	
6	A "Madison Guaranty is the mortgage holder.	
7	Therefore, in (blank) opinion the mortgage is	
8	invalid, as the utility had not (something blanked	
9	out) regulation and obtained approval of the	
0	mortgage."	
1	Q So this would put Madison Guaranty in an	
2	awkward position in terms of their mortgage on the	
3	Castle Sewer and Water property?	
4	MR. PORTNOY: Are you asking the witness	
5	for his opinion, or are you asking him whether	
6	anybody told him that?	
7	MR. BRENNER: I'm asking him for his	
8	opinion. He is currently the head of the Public	
9	Service Commission and he is very adequately versed	
0.9	in the rules and regulations of the Commission.	
21	MR. PORTNOY: To opine whether a bank	
22	would be in an "awkward position?" I'll just note	
		86
1	for the record that the question is less than clear.	
2	MR. BRENNER: I have no problem rephrasing	
3	the question.	
4	BY MR. BRENNER:	
5	Q The failure of McDougal and Madison	
6	Guaranty to comply with the Public Service	
7	Commission's requirements as they existed prior to	
8	the legislation was that something in your	
9	experience in the governor's office, or now in your	
0	experience as head of the Public Service Commission,	
1	something that is a common occurrence?	
12	A That what is a common occurrence?	
13	Q The failure to comply with the Public	
14	Service Commission rules and regulations.	
15	A Not that I am aware of.	
16	Q In light of the fact that more than two-	
17	thirds of this memo was dedicated to discussions of	
18	Madison Guaranty Savings and Loan, with potential	
19	litigation and their failure of compliance, I'm	
20		
21	hoping that may jog your memory as to the relevance of that in terms of the relationship between Mr.	

McDougal and Mr. Clinton.

		0/
1	A The memorandum simply lays out the	
2	information that Mr. Tucker provided to me, and that	
3	I transmitted to the governor.	
4	Q Do you recall any information that Mr.	
5	Tucker mentioned to you that was not memorialized in	
6	this writing?	
7	A Not that I recall at this time.	
8	Q Have you ever come to know of potential	
9	problems with a 1985 fundraiser sponsored by Mr.	
10	McDougal for Mr. Clinton?	
11	MR. COLE: When you say "potential	
12	problems," perhaps the witness understands it, but I	
13	don't know what that means.	
14	BY MR. BRENNER:	
15	Q Have you ever come to know about	
16	allegations that not all of the gifts given to the	
17	Governor Clinton fundraiser were made by the people	
18	who are credited with giving those gifts?	
19	A I have read newspaper reports that recount	
20	those allegations.	
21	Q Do you recall when you read those	
22	newspaper reports?	
	поморирот горото.	
		88
1	A No.	88
1 2	A No. O Even in approximate terms?	88
	Q Even in approximate terms?	88
2 3	Q Even in approximate terms? A No.	88
2 3 4	Q Even in approximate terms?A No.Q I'd like to show you what is a list of	88
2 3 4 5	Q Even in approximate terms? A No. Q I'd like to show you what is a list of contributions at the 1985 Madison fundraiser for	88
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		89
1	Α	Yes.
2	Q	Did anyone direct your attention to these
3	contribut	ions around the time of the veto in 1987?
4	A	No.
5	Q	Do you know who Robert or R.R. Randolph
6	is?	
7	A	No.
8	Q	Have you ever seen any documents that were
9	reference	d as fundraiser documents from the 1985
10	fundraise	r?
11		From that fundraiser, that particular
12		Yes. It's a fundraiser that occurred in
13	-	apparently April 4 or April 5 of 1985.
14	A	I certainly don't have any recollection of
15		ng seen any documents that pertain to that
16		r fundraiser.
17		In the governor's office, do you recall
18	-	y fundraiser documents? Was it a common
19		r fundraiser documents to be shown to people
20	_	vernor's office?
21		No, it was not.
22	Q	Did Governor Clinton show you any
		90
1		r documents?
2		Not that I recall.
3	-	Do you recall when did you first know
4		undraiser held by Mr. McDougal in 1985 for
5	Mr. Clint	on?
6	Α	
7		I don't know.
	Q	I don't know. Do you have even a general knowledge?
8	Q A	I don't know. Do you have even a general knowledge? No.
9	Q A Q	I don't know. Do you have even a general knowledge? No. Are you aware that there was a fundraiser
9 10	Q A Q held in 19	I don't know. Do you have even a general knowledge? No. Are you aware that there was a fundraiser 985 by Mr. McDougal at Madison Guaranty for
9 10 11	Q A Q held in 19 Mr. Clint	I don't know. Do you have even a general knowledge? No. Are you aware that there was a fundraiser 985 by Mr. McDougal at Madison Guaranty for ton?
9 10 11 12	Q A Q held in 19 Mr. Clint	I don't know. Do you have even a general knowledge? No. Are you aware that there was a fundraiser 985 by Mr. McDougal at Madison Guaranty for ton? Yes.
9 10 11 12 13	Q A Q held in 19 Mr. Clint A Q	I don't know. Do you have even a general knowledge? No. Are you aware that there was a fundraiser 985 by Mr. McDougal at Madison Guaranty for ton? Yes. In the course of your relationship with
9 10 11 12 13 14	Q A Q held in 19 Mr. Clint A Q the gover	I don't know. Do you have even a general knowledge? No. Are you aware that there was a fundraiser 985 by Mr. McDougal at Madison Guaranty for ton? Yes. In the course of your relationship with mor, would his daily schedule be something
9 10 11 12 13 14 15	Q A Q held in 19 Mr. Clint A Q the gover	I don't know. Do you have even a general knowledge? No. Are you aware that there was a fundraiser 985 by Mr. McDougal at Madison Guaranty for ton? Yes. In the course of your relationship with mor, would his daily schedule be something would be privy to?
9 10 11 12 13 14 15 16	Q A Q held in 19 Mr. Clint A Q the gover	I don't know. Do you have even a general knowledge? No. Are you aware that there was a fundraiser 985 by Mr. McDougal at Madison Guaranty for ton? Yes. In the course of your relationship with mor, would his daily schedule be something would be privy to? His public schedule probably was something
9 10 11 12 13 14 15 16 17	Q A Q held in 19 Mr. Clint A Q the gover that you A I saw fain	I don't know. Do you have even a general knowledge? No. Are you aware that there was a fundraiser 985 by Mr. McDougal at Madison Guaranty for ton? Yes. In the course of your relationship with mor, would his daily schedule be something would be privy to? His public schedule probably was something rly routinely.
9 10 11 12 13 14 15 16 17	Q A Q held in 19 Mr. Clint A Q the gover that you want A I saw fain	I don't know. Do you have even a general knowledge? No. Are you aware that there was a fundraiser 985 by Mr. McDougal at Madison Guaranty for ton? Yes. In the course of your relationship with mor, would his daily schedule be something would be privy to? His public schedule probably was something rly routinely. So if there was a notation in his schedule
9 10 11 12 13 14 15 16 17 18	Q A Q held in 19 Mr. Clint A Q the gover that you w A I saw fain Q that he w	I don't know. Do you have even a general knowledge? No. Are you aware that there was a fundraiser 985 by Mr. McDougal at Madison Guaranty for ton? Yes. In the course of your relationship with mor, would his daily schedule be something would be privy to? His public schedule probably was something rly routinely. So if there was a notation in his schedule was going to be attending a fundraiser in the
9 10 11 12 13 14 15 16 17 18 19 20	Q A Q held in 19 Mr. Clint A Q the gover that you w A I saw fain Q that he w evening a	I don't know. Do you have even a general knowledge? No. Are you aware that there was a fundraiser 985 by Mr. McDougal at Madison Guaranty for ton? Yes. In the course of your relationship with mor, would his daily schedule be something would be privy to? His public schedule probably was something rly routinely. So if there was a notation in his schedule ras going to be attending a fundraiser in the at Madison Guaranty, that would be something
9 10 11 12 13 14 15 16 17 18	Q A Q held in 19 Mr. Clint A Q the gover that you A I saw fain Q that he w evening a that you	I don't know. Do you have even a general knowledge? No. Are you aware that there was a fundraiser 985 by Mr. McDougal at Madison Guaranty for ton? Yes. In the course of your relationship with mor, would his daily schedule be something would be privy to? His public schedule probably was something rly routinely. So if there was a notation in his schedule was going to be attending a fundraiser in the

91 1 on his public schedule. So I don't know whether I 2 would have seen it or not. 3 But I'm asking you, it was something you 4 may well have seen. I'm not asking you necessarily 5 what you did see. MR. PORTNOY: We're now into like a third-6 7 level hypothetical. The witness has testified that 8 he did routinely see the governor's public schedule, 9 but that he has no specific recollection of seeing any notation with respect to this fundraiser. It 10 seems to cover the waterfront. 11 12 MR. NAPPI: Could we go off the record for 13 one minute? 14 (Discussion off the record.) 15 (Recess.) MR. BRENNER: Can we go back on the 16 17 record? BY MR. BRENNER: 18 19 Getting back to the 1985 fundraiser, did 20 you know at the time of the veto of the legislation 21 for Jim Guy Tucker and R.D. Randolph that there had been a fundraiser in 1985 for Bill Clinton at which 22 92 it appears that Mr. Tucker and Mr. Randolph made 1 contributions? 2 3 I don't know whether I had known that that fundraiser occurred or not at the time of the veto. 4 I don't think I was aware of it or remembered it if I 5 6 had known that it had occurred, and I don't know that 7 I did know that it occurred. 8 Subsequent to the veto, and prior to the 9 passage of the act in 1987, Act 37, was it brought to 10

your attention by any party that there had been a fundraiser in 1985?

Not that I recall.

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Did you have a contemporaneous recollection not brought to your attention by anybody else?

Α No, not that I recall.

I'm curious if you could rate the success of Act 37 in terms of do you think Act 37 was beneficial to the people of the state of Arkansas.

I don't have any basis for rating it.

Did you ever attend any fundraisers that were sponsored for Governor Clinton during your time

1 in the governor's office? 2 Sure. Without getting into the specifics of 3 4 various fundraisers, do you recall if you went on a 5 regular basis to fundraisers? 6 I didn't go -- I'm not sure what a regular 7 basis is. During each of the campaigns, there would be at least one large fundraising event, and I would 8 9 normally buy a ticket and attend. 10 Would you attend smaller fundraising 11 events? 12 I don't recall attending many small 13 fundraising events. I'm sure I probably have at one point or another, probably as staff going along to 14 15 take notes or something like that. 16 Do you recall attending any small 17 fundraising events in 1985? 18 I don't recall. 19 Did you know at the time Mr. Tucker mentioned to you Mr. McDougal's bank may be involved 20 21 in the legislation -- did you know at that time that 22 Mr. McDougal was a fundraiser for Mr. Clinton? 94 1 I knew McDougal had raised some money for 2 the governor. 3 Could you explain how you came to know 0 4 that? 5 I think I was just generally aware of it. 6 McDougal had raised some money for the governor on 7 occasion during campaigns. I don't think I had any 8 impression of the amount, or how often he had done fundraising activities on behalf of the campaign, but 9 10 I knew that he had to some extent. 11 O Did you attend the 1985 fundraiser that I've been referring to here today? 12 13 I don't think I did. I certainly don't 14 have any recollection of it. 15 Would you have any records in your 16 possession that would indicate your activities during 17 that time period? 18 No. I would not. 19 Q How did you come to know about Mr. 20 McDougal's involvement in the fundraising activities

A I'm not sure. Probably from conversation

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of Governor Clinton?

1 with Betsy Wright, I imagine.

Was Betsy Wright chiefly involved in doing campaign work for the governor, as well as her work in her capacity as chief of staff?

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Was she the only person that you know of that was involved? Was she the main person that you know of involved in the political campaigns of

9 Governor Clinton?

> A During most of Governor Clinton's tenure as governor, Betsy was the campaign manager for the campaigns.

Did you ever talk to Betsy Wright about 0 Jim McDougal?

A In what way?

In terms of his fundraising activities.

I don't recall any detailed discussions

with Betsy about what Jim McDougal may or may not 18

19 have done in terms of fundraising. I think, as I had

said earlier, that I was probably aware that McDougal 20

had done some fundraising, based on just a general 21 22

conversation or comment from her.

96

- O Do you know Bruce Lindsey?
 - Yes. I know Bruce Lindsey. A
 - When did you meet Bruce Lindsey? O
 - I don't recall specifically. Probably

5 when he was working for Senator, then-Governor David 6 Prvor a number of years ago.

Have you been in contact with Mr. Lindsey on a professional basis since --

Α Recently, or in the last 20 years?

Since you started working for then-0 attorney general Jim Guy Tucker.

Α On occasion.

Could you please describe those occasions?

I don't recall offhand all of them. There were times when I was working in Governor Clinton's office that the Wright firm, where Mr. Lindsey was a partner, would have clients who had interests that involved legislation or involved the activity of some state agency that I would have conversations with Mr. Lindsey about those.

Have you had discussions with Mr. Lindsey since he has come to work in Washington for President

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	C.Hnion /	

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2 A Yes.

Q Could you describe the nature and extent of those contacts?

A They have been for the most part just social conversations on the few occasions when I've run into him here in Washington, or when he's been back in Little Rock.

Q Have you had any non-social conversations with Mr. Lindsey since he came to Washington?

A I may have talked with him on a federal appointment issue or two.

Q Did you have any conversations with Mr. Lindsey about fundraising activities or campaign activities of the 1990 gubernatorial campaign?

A Not that I recall.

17 Q What was your understanding of Mr.

18 Lindsey's role in then-Governor Clinton's 1990

19 gubernatorial campaign?

A I don't know specifically what his role
was. I know he was involved in the campaign, but I
don't know specifically what his role was.

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Q Would you consider him one of the major persons involved in the President's gubernatorial campaign?

A That was my impression.

Q Did Mr. Clinton ever have any discussions with you about Mr. Lindsey?

MR. COLE: About Mr. Lindsey generally, or about his role in the campaign?

9 MR. BRENNER: About Mr. Lindsey generally, 10 for starters.

THE WITNESS: I'm sure, possibly again going back to the fact that Mr. Lindsey periodically would represent clients who had dealings with state government, that we would have talked about him in his capacity as counsel for clients involved with state government or legislative actions. I'm sure we did various times.

BY MR. BRENNER:

Q Did Mr. Clinton have any discussions with you about Mr. Lindsey's role in the 1990 Clinton gubernatorial campaign?

A I don't think so.

		99
1	Q Did Betsy Wright?	
2	A Not that I recall.	
3	Q Did Hillary Clinton?	
4	A I don't think so.	
5	Let me go back. With regard to Betsy, I	
6	may have had some general conversation with Betsy.	
7	She did not, as I recall, run the 1990 campaign.	
8	There were some hard feelings about that, so I had a	
9	conversation or two with her where she generally was	
10	probably venting some frustration about who was	
11	running it and who wasn't, and so forth. So, to that	
12	extent.	
13	But in terms of specifics, no.	
14	Q In terms of her role, her role changed	
15	from earlier campaigns to the 1990 campaign?	
16	A It's my recollection that she was not in	
17	charge of the 1990 campaign, that Dora Cabe was in	
18	charge of the 1990 campaign.	
19	Q Please spell that for the record.	
20	A C-a-b-e.	
21	Q In these discussions, did Mr. Lindsey's	
22	name ever come up?	
		100
1	A I think it may have.	100
1 2	A I think it may have. Q Do you recall what was said about Ms. Cabe	100
1 2 3	A I think it may have. Q Do you recall what was said about Ms. Cabe or Mr. Lindsey?	100
1 2 3 4	A I think it may have. Q Do you recall what was said about Ms. Cabe or Mr. Lindsey? A Not specifically.	100
1 2 3 4 5	A I think it may have. Q Do you recall what was said about Ms. Cabe or Mr. Lindsey? A Not specifically. Q Generally.	100
1 2 3 4 5 6	A I think it may have. Q Do you recall what was said about Ms. Cabe or Mr. Lindsey? A Not specifically. Q Generally. A Generally that Betsy was dissatisfied that	100
1 2 3 4 5 6 7	A I think it may have. Q Do you recall what was said about Ms. Cabe or Mr. Lindsey? A Not specifically. Q Generally. A Generally that Betsy was dissatisfied that she didn't have the role that she'd had in the past,	100
1 2 3 4 5 6 7 8	A I think it may have. Q Do you recall what was said about Ms. Cabe or Mr. Lindsey? A Not specifically. Q Generally. A Generally that Betsy was dissatisfied that she didn't have the role that she'd had in the past, and other people did. But beyond that, I don't	100
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1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19	A I think it may have. Q Do you recall what was said about Ms. Cabe or Mr. Lindsey? A Not specifically. Q Generally. A Generally that Betsy was dissatisfied that she didn't have the role that she'd had in the past, and other people did. But beyond that, I don't recall the specifics. Q What was your understanding of why her role changed? A I don't know. Q Did she ever discuss with you why her role changed? A I don't recall her discussing specifically why. Q Do you recall her discussing generally? A Yes. Q Do you recall generally what was said?	100

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1	and the role of Betsy Wright?
2	A No.
3	Q Do you recall having any discussions with
4	Mrs. Clinton about the changing roles of Betsy Wright
5	and Bruce Lindsey?
6	A No.
7	Q Do you recall having discussions with
8	anybody that I have not previously mentioned about
9	Betsy Wright's changed role in the 1990 gubernatorial
10	campaign?
11	A I'm sure I did.
12	Q Do you recall who that may have been with?
13	A No.
14	Q Earlier I asked you if you knew who R. R.
15	Randolph was. I'd like to turn your attention to
16	documents labeled DKSN 024917 through DKSN 024922.
17	(Documents handed to witness.)
18	BY MR. BRENNER:
19	Q If you could explain to me what those are,
20	and have you seen those documents?
21 22	(Pause.) A They are two documents. They are both
	A They are two documents. They are both 102
1	Arkansas Public Service Commission documents. The
2	first one is a motion to compel filing a report on
3	gross revenues. It's docket 95-279-U, initiated by
4	the staff of the Commission, which asserts that
5	Castle Water and Sewer has failed to file a required
6	report with the Commission.
7	The second document is a designation order
8	that assigns that docket to Administrative Law Judge
9	Burl Ruttenberry.
10	Q Do you know during 1985, specifically
11	during the period mentioned and the date stamps at
12	the top are April and May of 1995 who was in
13	charge of Castle Water and Sewer Company?
14	A I don't know specifically who was in
15	charge of Castle Water and Sewer.
16	Q If I could take those documents back,
17	please.
18	(Documents handed to counsel.)
19	BY MR. BRENNER:
20	Q Has it ever come to your attention that
21	the rates at Castle Grande for utilities are in the
22	neighborhood of three times more expensive than if

103 they lived in Little Rock? 1 2 I think I have seen a newspaper report 3 that reported that. 4 Is that because of the deregulation? I don't know why that is. But it is my 5 impression that it has more to do with the size of 6 the company, the infrastructure, and some of the 7 8 problems that they've had. 9 Would the Public Service Commission, if they had control over the regulatory authority for 10 Castle Sewer and Water, be able to control the rates 11 that were being charged by Castle Sewer and Water? 12 Control the rates? Yes. Lower the rates? 13 Not necessarily. 14 15 After 1987, what was your next contact, if any, with anyone associated with Castle Sewer and 16 Water or any of its subsidiaries? 17 I don't know who all is associated with 18 19 Castle Water and Sewer. Jim Guy Tucker, Jim McDougal, R.D. 20 21 Randolph. 22 I don't recall having any contact with 104 R.D. Randolph. I'm relatively positive of that. I 1 2 don't think I've seen McDougal since then. 3 O Have you spoken to McDougal since then? I don't think so. If I did, I may have 4 run into him on the street or something like that. 5 6 But I don't recall that I have. I've not had any substantive contact or dealings with him. And I have 7 seen Governor Tucker since that time on numerous 8 9 occasions. 10 0 Could you describe your personal relationship, if any, with Governor Tucker? 11 I don't think I have any personal 12 13 relationship with him. I have a professional 14 relationship with him. 15 I just briefly want to discuss a couple of things about the Public Service Commission. 16 17 Do you know Mr. Gil Glover? 18 Yes. I know Mr. Glover. Α 19 Who is he? O 20 He is chief counsel of the general staff

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of the Public Service Commission.

Would he have any involvement with the

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. . .

105 1 order of dismissal, or any of the other documents related to Castle Water and Sewer Company? 2 3 The order of dismissal? 4 Any of the documents that I just showed 0 5 you related to Castle Sewer and Water in 1995. 6 Yes. 7 0 Was he the supervising attorney for the 8 Public Service Commission staff? 9 For the attorneys on the general staff, he 10 is the general counsel. So he would be the 11 supervisor to Beverly Hood Jones, who had signed the 12 measure. 13 When did you meet Mr. Glover? 0 14 I don't recall when I first met him. I've 15 known him for a number of years. You've known him since you were in the 16 17 governor's office? 18 At least that long; ten years or so, maybe 19 longer. 20 How is Mr. Glover regarded within the 21 Public Service Commission? 22 A I personally regard him as a very valuable 106 employee, very competent. He does a good job in his 1 capacity as general counsel for the staff. 2 3 Have you ever met his wife, Paula Casey? 4 Α Yes. 5 0 When did you meet Ms. Casey? 6 Probably about the same time I met Gil. I 7 don't recall specifically. I've known her for a 8 number of years. 9 Q Has Ms. Casey or Mr. Glover ever discussed 10 with you potential legal problems for the President 11 or the First Lady? 12 Ms. Casey and I have not had any such 13 discussions. Gil and I at various times over a cup 14 of coffee have talked about developments in the so-15 called Whitewater matters. 16 Q Could you explain to me the discussions 17 you've had? 18 Just general discussions about what was 19 going on, what was being reported in the press. Q Did he ever discuss his wife's recusal 20 from the Madison case with you? 21 22 Α No

107 Did he ever discuss his wife's recusal 1 2 from the David Hale case with you? 3 No. 4 O Did he ever discuss the underlying cases 5 prior to the recusals? 6 Α No. 7 (Pause.) 8 MR. BRENNER: Can we go off the record, 9 please? 10 (Discussion off the record.) 11 (Whereupon, at 12:55 p.m., the hearing in the above-entitled matter was recessed, to reconvene 12 at 1:45 p.m., this same day.) 13 14 15 16 17 18 19 20 21 22 108 1 AFTERNOON SESSION 2 (1:45 p.m.) 3 Whereupon, 4 SAM I. BRATTON, JR. 5 resumed the stand and, having been previously duly 6 sworn, was further examined and testified as follows: 7 EXAMINATION (Continued) BY MR. BRENNER: 8 9 I'm going to discuss with you a series of phone calls, and I want to know whether the governor 10 or anyone else talked to you about the following 11 phone contacts. It's going to be document numbers 12 13 DKSN 12969, 12961, 13167, 13168, 13176, 13183, 13180, 14 13161. 15 There was a call dated October 7, 1986 from R.D. Randolph. 16 17 (Document handed to witness.) BY MR. BRENNER: 18 19 Can you read the message at the bottom? 20 It's the last one on the page. 21 Could you read that for the record? 22 "Clara said he is now or has been

109 associated with Jim." 1 2 Is this Jim Guy Tucker or Jim McDougal? 0 3 Α I have no idea. 4 0 Did anybody ever speak to you about this 5 phone call? 6 Α Not that I have any recollection of. 7 Do you have any idea who the "Jim" 8 referenced in that phone message is? 9 None whatsoever. 10 The next phone call I'd like to turn your attention to is a phone call by R.D. Randolph dated 11 12 January 23, 1987. 13 (Document handed to witness.) 14 BY MR. BRENNER: 15 If you could read the message. "He's your neighbor. Said you would know 16 17 why he's calling." Did the governor ever talk to you about 18 19 this phone message? 20 I have no recollection of it. 21 Did anyone else ever talk to you about this phone message? 22 110 Not that I have any recollection of. 1 Α 2 Was this around the time the legislation 3 allowing Castle Sewer and Water to not fall under the purview of the PSC was pending before the state 4 legislature? 5 6 Α It appears to be the same general time 7 frame. The next phone call I'd like to turn your 8 attention to is from December 13, 1988, also from 9 10 R.D. Randolph. There's a handwritten note. 11 (Document handed to witness.) 12 BY MR. BRENNER: 13 Do you recognize the handwriting? I think it's probably Betsy Wright's 14 A handwriting. 15 16 What does it say? Q 17 It says "Someone else called." Α 18 Q It says "Someone else called?"

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Q

The handwritten?

Did Ms. Wright or anyone else discuss this phone message with you or ask you to return the phone

Yes, sir.

1	call to R.D. Randolph?	
2	A Not that I recall.	
3	Q The next phone message I'd like to turn	
4	your attention to is December 30, 1988, a call from	
5	R.D. Randolph.	
6	(Document handed to witness.)	
7	BY MR. BRENNER:	
8	Q If you could read the message, please.	
9	A "Betsy called him and he told her it was	
10	personal crap that he wanted to talk to you about,	
11	and he would wait your call."	
12	Q That is referring to Betsy Wright?	
13	A It seems to be.	
14	Q Did Ms. Wright or anybody else ever speak	
15	to you about this phone call?	
16	A Not that I recall.	
17	Q There's a call dated January 20, 1989.	
18	Were you still in the governor's office at that time?	
19	A Yes.	
20	Q It's a call from R.D. Randolph. Could you	
21	please read the message?	
22	(Document handed to witness.)	
		12
1	THE WITNESS: "Please call tonight or this	12
1 2	THE WITNESS: "Please call tonight or this weekend. Wants to complain about Senator Bell's bill	12
1 2 3	THE WITNESS: "Please call tonight or this weekend. Wants to complain about Senator Bell's bill on educational directors and a whole lot of other	12
1 2 3 4	THE WITNESS: "Please call tonight or this weekend. Wants to complain about Senator Bell's bill on educational directors and a whole lot of other things."	12
1 2 3 4 5	THE WITNESS: "Please call tonight or this weekend. Wants to complain about Senator Bell's bill on educational directors and a whole lot of other things." BY MR. BRENNER:	12
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113 At what point in time -- just because I 1 2 have a series of phone messages here -- did you leave 3 the governor's office and go to the Public Service 4 Commission? 5 In early April of '89. I don't remember 6 the precise date. 7 At any time before you left, did the 8 governor ask you about a potential job for R.D. 9 Randolph within the state government? Not that I recall. 10 11 0 Do you remember anything related to the 12. Arkansas Development Finance Authority and R.D. 13 Randolph? 14 Α I have some vague recollection that I was 15 aware that Randolph had wanted some sort of job or appointment. I don't think I ever talked to the 16 17 governor about it. I don't know where I got that 18 impression, but I do have some vague recollection 19 that he at one point was interested in some 20 employment. 21 You mentioned earlier Bob Nash. 0 22 What was Bob Nash's role in the governor's 114 1 office? 2 He was the staff person who had 3 responsibility for the economic development activities, broadly defined. He would have been the 4 5 liaison with the Arkansas Industrial Development 6 Commission and some other programs, economic 7 development programs. 8 Were you and Mr. Nash sort of coequals in 9 terms of being senior professionals? 10 A Yes. 11 Were you and Mr. Nash friends? 0 12 Α Yes. 13 Did you speak often? 0 14 He had the office next to mine for a number of years, so we'd see each other every day. 15 16 So I have it clear, could you in general 17 terms explain to me the layout of the office, in

The governor's office was in Room 250, which was on the north end of the Capitol on the east

five separate locations.

terms of whose office was next to whose office?

The governor's office was in about four or

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115 side of the building. The governor's office was 1 2 there, his personal secretary, another secretary, the scheduling people, the press office, Betsy Wright's 3 4 office, Carol Rasco's office. 5 Who's Carol Rasco, for the record? 0 6 She was the senior staff person 7 responsible for human service and health issues at 8 that point. 9 There was a conference room connecting 250 and Room 238, which was on the same end of the 10 11 building. And on the west side, my office was there, Bob Nash's office was there, and there were three 12 other offices that were occupied by various people 13 over that period of time when I was with them. 14 Were any of those persons Caroline Huber? 15 0 16 Caroline Huber, to my recollection, never had an office in the governor's office. 17 A moment ago, you spoke of, at various 18 19 times there were other people in the other offices. 20 At what period of time is the description of the offices you gave me relevant? 21 22 '83 -- roughly, say, January 1, '84, when 116 I was back on staff full time, through the time I 1 2 left in the spring of '89. 3 Do you know Ms. Huber? 0 4 Α I know who she is, yes. 5 Who is she? 0 6 Α She at one point worked at the Rose Law 7 Firm, and at a later point was the administrator of 8 the governor's mansion. 9 When did you first meet Ms. Huber? Q 10 Α I don't recall. Do you have a general recollection of when 11 12 she may have come on staff? 13 No. not really. Α Did she come on staff after you? 14 0 15 I don't recall who was the mansion Α 16 administrator in '84. 17 0 Did you have frequent contact with Ms. 18 Huber?

I would see her when I was at meetings at

Q Did she know you by name? A Sure.

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the mansion.

117 Did you know her by name? 1 0 2 Α 3 When was the last time you spoke with Ms. 0 4 Huber? 5 Α I don't recall. Have you spoken to her since she's been in 6 0 7 Washington? 8 I think I probably saw her at a Christmas 9 party at the White House a couple of years ago. 10 What, if you recall, were the names of 11 Governor Clinton's secretaries during his tenure as 12 governor? 13 Α Linda Dixon was his secretary most of the time, or perhaps all the time in the '84 through '89 14 period that I was on staff. I don't recall the name 15 of the woman who was his secretary during his first 16 17 term. 18 This is only the personal secretaries? 0 19 Α Yes. 20 In other words, the name of the woman who 21 was "NH," the initials NH --22 Nancy Hernreich. 118 1 Q What was her position? 2 She scheduled the governor's time. Α 3 Were there any other schedulers that you 0 4 recall? 5 She had an assistant during most of that 6 time. There were two or three different people who 7 were in that position. I don't recall offhand who 8 they were. Do you recall when you first met Jim 9 0 10 McDougal? 11 Probably some time in late '78 or early Α 79. 12 13 Do you recall attending any meetings with 0 14 Mr. McDougal? 15 I would have attended staff meetings in that '79 period when he was on the governor's staff. 16 17 After he left the governor's staff, do you recall attending any meetings with Mr. McDougal? 18 19 I don't recall specifically. It's 20 certainly possible that I might have on one or two occasions. 21

Do you recall ever speaking with Mr.

22

1 McDougal on the phone?

A Not specifically. Entirely possible and probable that I did at some point during that four or five years.

Q Do you have any recollection of the one or two meetings you may have had with Mr. McDougal?

A No. And I'm not sure I did. I just said it's possible.

Q Do you have any recollection of any of the phone calls you may have had with Mr. McDougal?

A No. I'm not sure I did. It's certainly possible that I had a phone call or two with him.

Q Do you recall receiving any documents that were sent to you or to the governor's office generally, or to the governor, by Mr. McDougal?

A I don't have any specific recollection of that.

Q Do you recall having any discussions withthe President in which the name Jim McDougal came up?

A I don't have any specific recollection. I 21 know there was an occasion where one of McDougal's

22 real estate development projects was involved in some

controversy with the health department regarding
 septic tank systems. I was not directly involved in
 that issue. But I was aware that it was going on.
 It may have been in some conversations where that was
 discussed.

Q What conversations were you involved in that you recall?

A I don't recall specifically. But we would periodically have senior staff sessions with the governor where there would be two or three people present who would bring up whatever issues the particular staff people thought the governor needed to be aware of. And you would hear issues that you weren't directly involved with being discussed, probably in some sort of setting, anything.

Q Was that Maple Creek Farms? Do you remember?

A I don't remember which particular development it was.

Q Did the First Lady ever attend any of these senior staff meetings that you just referred to?

1 Occasionally there would be a session at 2 the mansion she might sit in on. 3 Do you recall any of the meetings she did 4 sit in on? 5 No, not particularly. Α 6 Do you recall having any discussions with 7 Betsy Wright or anyone else where Mr. McDougal's name 8 came up in relation to Whitewater Development 9 Corporation? 10 I had one or more conversations one year 11 with Betsy when she was preparing the governor's 12 financial disclosure statement, which all state 13 officials above a certain level are required to prepare. And there was some question about how that 14 should be reported on the financial disclosure form, 15 and she had talked with me about it. 16 17 O Did you have any discussions with anyone 18 else where Mr. McDougal's name came up, either related to Whitewater or related to any of his real 19 estate investments or business investments? 20 21 I'm sure I probably had some 22 conversations. 122 1 Do you recall the substance of any of 2 those conversations? 3 What business activities are you Α 4 including? 5 Well, I'll break it down. 0 6 Do you recall any discussions with anyone 7 about Maple Creek Farms and the septic system of Maple Creek Farms? 8 9 Not other than I have already indicated. 10 Do you recall any discussions of Mr. McDougal's investment in Madison Guaranty Bank? 11 I had discussions with some individuals 12 13 regarding his ownership of Madison. Who were those individuals? 14 Q With the governor, with Betsy Wright, with 15 16 Beverly Bassett-Schaffer, among others. 17 With regard to your discussions with the governor, what was the nature and extent of those 18 19 conversations? I was the liaison with the securities 20 21 department, and from time to time during the period 22 leading up to McDougal's removal as chairman of the

board, I guess by this time, I would receive some briefings from Beverly Bassett-Schaffer about the status of Madison, and from time to time I would pass those on to the governor. At any of those meetings, did the governor relate to you that he was in a business transaction with Jim McDougal? A Not that I recall. O Did he ever relate to you his desire to see to it that Madison was treated fairly? A Not that I recall. I don't think there was ever any reason to think that they weren't being treated fairly. Did he ever relate to you that his wife represented Madison Guaranty in some cases? Not that I recall. Did he ever relate to you that the Rose Law Firm represented Madison Guaranty in certain issues? I was aware that the Rose Law Firm did represent Madison. I was not aware as to what the particular matters that representation was. When did you become aware of that? Q I'm not sure. (Discussion off the record.) (Recess.)

BY MR. BRENNER:

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I wanted to go back to your agency liaison relationship for the governor's office. Could you tell me which agencies you were a liaison to and the time frame for those liaison relationships?

Well, I basically had the same group of agencies from January of '84 until I left the governor's office, included the department of finance and administration, computer services department, Public Service Commission, the bank department, securities department, and the insurance department.

And did you do this as well during 1978 to 0 1980?

14 No. The only agencies that I had any responsibility for during the '78 to '79 time period 15 were the education related agencies. 16

As the agency liaison or in your role in the governor's office, were you responsible between '84 and '89 for shepherding appointments?

20 I didn't have a great deal to do with 21 appointments. If you're talking about appointments 22 to state boards and commissions, I didn't have a

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great deal to do with that. I would have had some to 1 2 do with it. 3

What would you have to do with it?

4 It would vary. Sometimes I would have more 5 involvement than others in appointments involving 6 some of those agencies. 7

Could you explain the scale?

One of the agencies that I had was an additional one was workers' comp commission, and we appointed a new chairman somewhere along in '87, '88, somewhere in that time frame. I was fairly significantly involved in those discussions, and there were other appointments that I did that

14 involved some agencies that I was involved with that 15 I didn't have any particular input into.

16 What were the factors or variables that 17 affected your involvement in appointments? 18

I don't know that there were specifics.

19 0 Who would ask you to get involved in doing 20 a given appointment? 21

Normally it would be Betsey Wright.

0 Did the governor ever ask you to get 1 involved in any appointments?

A By that do you mean the governor personally rather than a request from him through Betsey?

Q I mean the governor personally.

A I don't recall.

Q And what about the governor, did Betsey Wright hold out to you at any point that certain appointments she was requesting that you deal with were requests that came from the governor to her?

A Well, I normally assumed that whatever requests or directions that I got from Betsey came from the governor.

Q Do you recall which appointments Betsey Wright asked you to get involved in?

A As one I mentioned, workers' comp commission, I was fairly deeply involved. Right offhand I don't recall others I was really involved with.

Q Was there anyone in the governor's office who was in charge or responsible for handling appointments to the various agencies?

A There was a staff person who had the

primary responsibility of keeping track of what appointments became vacant, what the requirements for the appointment were, perhaps compiling a list of people who had indicated interest in it, that sort of thing.

Q Who was responsible for that?

A Various people did it at various different times. I think a woman named Judy Gaddy worked on it for a while. Craig Smith handled appointments for a while.

Q Do you recall the chronology of people handling it?

A Craig Smith had that responsibility in the last couple of years I was in the governor's office, and Judy Gaddy and I believe Mary Ann Salmon did some work with appointments in previous years. I don't remember whether Mary Ann and Judy were working on them at the same time or whether one had primary responsibility before the other one, but I do think both of them worked on it at various times.

Q Can you give me the general time frame of

22 their --

129 1 Not other than just within the time frame 2 that we're talking about. 3 O Was there anyone else, other than the three 4 people you've already mentioned, that you can recall? Not that I can recall. There were 5 6 administrative assistant types who kept the computer 7 records and so forth. Those are the three 8 individuals that I remember who had the primary 9 responsibility as the professional staff person for 10 appointments. 11 0 Would any appointments be discussed at the 12 senior staff meetings that you mentioned earlier? 13 Sometimes they would be; sometimes others 14 wouldn't be. 15 Q Do you recall any discussions of any 16 particular appointments during those senior staff 17 meetings? MR. PORTNOY: Off the record for a second. 18 19 (Discussion off the record.) 20 (The reporter read the record as requested.) 21 THE WITNESS: Not with any specificity, but 22 I know there were various times appointments were 130 1 discussed. 2 BY MR. BRENNER: 3 Do you know who was involved in the 4 appointment of Beverly Bassett-Schaffer as head of 5 the Arkansas securities commission? 6 I was not involved in that process, and I 7 don't know of my own personal knowledge who, other 8 than the governor, was involved. 9 When you say "of your own personal knowledge," did anybody hold out to you any 10 11 information about their involvement or anyone else's 12 involvement? 13 A Not that I recall. 14 Do you have any recollection of whether or 15 not Betsey Wright was involved? 16 I'm sure she was. 17 Do you have any recollection of whether or 18 not Hillary Clinton was involved? 19 I don't have any information about that one A 20 way or another.

Whether or not Jim McDougal was involved?

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A

I don't know.

	1.
1	Q Did you know that Beverly Bassett, before
2	becoming securities commissioner, worked for Jim Guy
3	Tucker at Mitchell Williams?
4	A I knew she had worked at the Mitchell firm
5	prior to her appointment, and I have read in the
6	newspapers in recent months that she did some work
7	related to Madison according to news reports.
8	Q Were you involved in the appointment of
9	Herby Branscum to the Arkansas state highway
10	commission?
11	A No.
12	Q Do you know who Herby Branscum is?
13	A Yes.
14	Q How do you know that?
15	A I have just known who he is for a number of
16	years. A specific way was that prior to his
17	appointment to the highway commission, he was on the
18	board of trustees of the University of Central
19	Arkansas, and from time to time I had some
20	discussions with him about higher education matters.
21	I would see him at Democratic Party functions off and
22	on over the years.
	1
1	Q And when do you recall meeting Herby
2	Branscum?
3	A 15 years ago. I don't remember the
4	circumstances. He's somebody I've known for a long
5	time.
6	Q What is your understanding of
7	Mr. Branscum's profession?
8	A That he is a primary owner of a bank in
9	Perry County, has a law degree.
10	Q And do you know who was involved in the
11	annointment of Herby Brancoum to the Arkancac clair
12	appointment of Herby Branscum to the Arkansas state
13	highway commission?
	highway commission? A Not directly.
14	highway commission? A Not directly. Q Indirectly, have you come to know through
14 15	highway commission? A Not directly. Q Indirectly, have you come to know through any other means who may have been involved?
14 15 16	highway commission? A Not directly. Q Indirectly, have you come to know through any other means who may have been involved? A Not in any other way other than I generally
14 15 16 17	highway commission? A Not directly. Q Indirectly, have you come to know through any other means who may have been involved? A Not in any other way other than I generally know who would be involved in the appointments
14 15 16 17 18	highway commission? A Not directly. Q Indirectly, have you come to know through any other means who may have been involved? A Not in any other way other than I generally know who would be involved in the appointments process.
14 15 16 17 18	highway commission? A Not directly. Q Indirectly, have you come to know through any other means who may have been involved? A Not in any other way other than I generally know who would be involved in the appointments process. Q And who would that be?
14 15 16 17 18 19 20	highway commission? A Not directly. Q Indirectly, have you come to know through any other means who may have been involved? A Not in any other way other than I generally know who would be involved in the appointments process. Q And who would that be? A Well, it would have been the governor,
14 15 16 17 18	highway commission? A Not directly. Q Indirectly, have you come to know through any other means who may have been involved? A Not in any other way other than I generally know who would be involved in the appointments process. Q And who would that be?

133 1 Who would be in charge of handling the 2 mechanics? 3 Well, Craig Smith, Judy Gaddy, Mary Ann 4 Salmon, whoever had that position at the particular time of the Branscum appointment, and I don't know 5 6 who did. 7 0 Have you had any discussions with Herby 8 Branscum since he's become the state highway 9 commissioner about his appointment? 10 About his appointment, no. 11 0 About his role in the state highway 12 commission? 13 No. Α 14 0 Are you familiar with the role that Perry 15 County Bank played during the 1990 Clinton for 16 governor campaign? 17 Α From what I read in the newspaper. 18 0 And what's your understanding of that role? 19 That certain campaign accounts were 20 maintained there. I don't recall specifically. 21 Do you have any knowledge other than what 22 you've read in the newspapers about the role of Perry 134 1 County Bank? 2 Not that I can recall. Α 3 O Do you know who Patsy Thomasson is? 4 Α Yes. 5 0 Who is Patsy Thomasson? 6 She is a former member of the highway 7 commission. She is currently employed in some 8 capacity in the White House. 9 0 When did you first meet Patsy Thomasson? 10 Α 15 years ago, probably. 11 Do you recall the nature and circumstances 12 of that meeting? 13 Α No, not specifically. Do you recall if you were introduced to her 14 15 by another member of the staff in the governor's 16 office or by the governor himself? 17 I don't know when I met her or the 18 circumstances. I think I had probably -- I probably met her sometime shortly after she was appointed to 19 20 the highway commission during the time David Pryor was governor, but I don't know who introduced me to

21 22

her.

1 Do you know who was involved in the 2 appointment of Patsy Thomasson to the Arkansas state 3 highway commission? 4 No. A 5 Do you know when that occurred? 0 6 It's my recollection she was appointed by 7 Governor David Pryor, but beyond that, I don't know. 8 Do you know her professional -- do you know 9 anything about her professional relationship with Dan Lassiter? 10 I know she was employed for a period of 11 12 time by Dan Lassiter to manage some parts of his 13 business operations. 14 Have you ever met Robert Hill? 0 15 Not that I recall. Α 16 0 Do you know that Mr. Hill is Mr. Branscum's 17 partner in Perry County Bank? 18 I think I have read that. A 19 Do you recall where you've read that? Q I assume in The Democrat Gazette, probably. 20 Α 21 0 Do you know who was involved in the 22 appointment of Robert Hill to the Arkansas state 136 1 banking commission? 2 A No, I don't. 3 Who took over your role when you left the 4 governor's office and went to the Public Service 5 Commission in terms of your liaison role to the 6 agencies? 7 I think Phil Wasson probably took some of 8 that responsibility. I don't know --9 Could you spell that name for the record, 10 please? 11 Α W-a-s-s-o-n. 12 Do you know who else may have taken part of 13 the responsibilities that you had in the governor's 14 office? 15 Α No. 16 Q Do you know who Marlon Jackson is? 17 Α Yes. 18 Q Who is Marlon Jackson? 19 Marlon Jackson is a banker and was chairman 20 of the Arkansas -- director of the Arkansas bank 21 department for a period of time in the mid-'80s. 22 Q Have you ever met Mr. Jackson?

1	A	Claudain 1
	Α	Certainly.
	4.3	Containing.

Q When did you have occasion to meet him?

A I don't know whether I had met him before he was appointed director of the Department or not, but I don't recall specifically, but certainly then.

Q Do you know who was involved in the appointment of Marlon Jackson to the Arkansas state bank department?

A Again, beyond the governor, Betsey Wright and whatever staff person was handling the appointments, I would know that those people were involved. I don't know who else was involved.

Q Was Mrs. Clinton ever involved, to your knowledge, in any appointments to any of the agencies that you had a liaison relationship with?

A Not that I have any recollection of.

Q Any agency at all that you can recall?

A I know she had some involvement in the appointment of a director position at the department of education on one occasion.

Q Can you recall any involvement you've had with any appointments to the state bank board or any

other banking, savings and loan or securities oversight board committee or commission within the state of Arkansas?

A I don't recall being consulted or involved in discussions about the appointment of any member to those boards.

Q You've stated that you have a recollection of Hillary Rodham Clinton being involved in one education department appointment. Is that the only instance you can recall of Mrs. Clinton's involvement?

A It's the only instance that I have any specific recollection of.

Q General recollection of her involvement --

A Or general recollection.

Q For the record just to clarify, that is the only appointment that you have knowledge that Hillary Clinton was involved in?

A Well, actually there were probably two education director appointments, and those are the only ones that I had any either direct or indirect recollection of at this time. I am sure that there

1 were other appointments where she had some view that 2 she expressed to the governor, but that would be speculation on my part as to which of those -- which 3 appointments those might have been. 4 5 When do you recall meeting Beverly 6 Bassett-Schaffer? 7 I met her sometime during the late '70s. 8 And how did you meet her? 9 She was a law student and lived in an apartment complex where a friend of mine lived. 10 Were you aware of any opinion that 11 Mrs. Clinton expressed with regard to any 12 appointments through indirect knowledge besides the 13 two you've previously mentioned? 14 Not that I have any recollection of at this 15 16 time. 17 Has she ever expressed an opinion to you about any appointment to any of the regulatory or 18 other boards, mentioned about any candidates? 19 Not other than one of the two education 20 21 appointments that I recall. Have you come to know about any involvement 22 140 Mrs. Clinton had or any opinion she may have 1 expressed one way or another with regard to any of 2 the appointments to any of the agencies to any other 3 4 member of the gubernatorial staff? Would you run that by me again? 5 6 MR. PORTNOY: I think I'm going to restate 7 for the record an objection I raised before. At this point I would urge that if you have questions about 8 9 specific appointments that pertain to the resolution, that you ask about those appointments, but I think 10 we've now done quite a bit of general questioning 11 12 about appointments to boards. 13 MR. BRENNER: Your objection is noted. 14 MR. PORTNOY: And offices. 15 MR. COLE: Off the record. 16 (Discussion off the record.) MR. BRENNER: Back on the record. Please 17 read back the last question. 18 19 (The reporter read the record as requested.) 20 THE WITNESS: I am sure during the period of time that I was in the governor's office from time 21

to time I probably heard Betsey Wright and perhaps

1 others, I don't know who, comment on some view that 2 the First Lady may have had about an appointment which was made or wasn't made, but I don't recall any 3 specifics of it. I mean, those were the sorts of 4 5 discussions that -- it's been almost 10 years ago. 6 Those are the sorts of discussions about what actions 7 we took or didn't take that went on every day, and I 8 simply don't remember the specifics of them 10 years 9 later BY MR. BRENNER: 10 11 O I wanted to get back to Beverly 12 Bassett-Schaffer. When do you recall you first met her? 13 14 I think I met her probably in, oh, '77 or '78 or sometime along there, maybe a little earlier. 15 How did you come to meet her at that time? 16 17 It's my recollection that she lived in the same apartment complex that a friend of mine lived in 18 19 and that I met her there. And subsequent to that contact, when did 20 21 you first meet her after you started working for the 22 governor again in 1984? 142 1 A I don't recall. 2 Do you recall her appointment to the 3 Arkansas securities commission? 4 Yes, I recall that she was appointed. 5 Do you recall approximately when that was? 0 A I don't know, maybe in -- sometime in '85 6 7 perhaps, I don't remember. I believe Lee Thalheimer, 8 who had been her predecessor, was still securities 9 commissioner for a period of time after I assumed the responsibility of the liaison operation with that 10 11 agency. 12 Were you involved in any meetings regarding 13 Ms. Schaffer's appointment to the Arkansas securities 14 commission? 15 Α Not that I recall. Do you recall when you first met Lee 16 0 17 Thalheimer? 18 No, I don't recall when I first met him. 19 I'm going to show you a document that's 20 marked DKSN 025893. Could you please explain for the 21 record what that document is. 22 A It is a letter addressed to "The Honorable

143 Bill Clinton, Governor, State of Arkansas, State 1 2 Capitol, Little Rock, Arkansas 72201. Dear Bill, it has come to my attention Lee Thalheimer, state 3 4 security commissioner, is seriously considering a change in," I guess it should be "careers," but 5 misspelled. "Should this in fact be true we would 6 7 very much like to have this opportunity to discuss with you the qualities and characteristics that we 8 9 believe the individual who replaces him should possess. We would look forward to the opportunity to 10 discuss this with you." 11 12 Handwritten on the top of the letter is my 13 name, and in the upper right-hand corner is written 14 "securities department" and "log out." 15 Who is it signed by? Q 16 Α It's signed by Dan Lassiter. Do you recall receiving that letter? 17 18 I don't recall receiving it. That's my 19 handwriting in the upper right-hand corner so obviously I did receive it for filing purposes, which 20 is what that reference is to. "Securities" means the 21 direction of my secretary to file it in the agency 22 144 1 file on the securities department and to log it out as something that needed to be responded to. 2 3 Do you recall responding to this letter? 4 A No. 5 O Do you recall --"Log out" probably means it was not 6 7 responded to by letter. 8 Do you recall any conversations you've had 9 with Dan Lassiter regarding this letter or the 10 contents? 11 I don't think I've ever had any 12 conversation with Dan Lassiter other than perhaps a 13 hello, how are you. Do you recall having any conversations with 14 15 Governor Clinton about this letter or about who would 16 possess the qualities to take over for Lee Thalheimer? 17 Not that I recall. 18

Did you ever become aware of what these

I have no idea what he was referring to.

characteristics and qualities mentioned in the

letter, what Dan Lassiter was referring to?

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Q Do you recall receiving any other letters that were addressed to either Governor Clinton or to you about who would replace Lee Thalheimer as state securities commissioner?

A I don't recall. I'm sure we probably did receive other suggestions or nominations.

Q Do you recall any discussions with staff or with the governor about who would replace Lee Thalheimer?

A I have a general recollection that Betsey told me that Beverly Bassett was going to be appointed or was very likely going to be appointed very shortly before the appointment was announced.

Q And what was your response when you heard that?

A I don't recall that I had any particular response.

Q You were referring, of course, to Betsey Wright when you said "Betsey"?

A Yes.

Q Do you recall whether or not she was asking your opinion or whether it was a conclusory

statement?

A It's my recollection that she was telling me that that was the likely choice the governor was going to make.

Q And did you approve of that choice?

A I don't recall having any particular reaction one way or another.

Q Is your recollection based on one statement or one discussion you had with Betsey Wright or did she mention this to you on more than one occasion?

A It might have been once, it may have been twice.

Q You don't recall?

A I don't recall.

Q When was your first contact with Beverly Bassett-Schaffer since her name was being considered for the appointment to the securities commission?

A I don't imagine I had any -- if your question is did I have any contact with her between the time that I knew she was under consideration or was likely to be appointed and the time she was appointed, to the best of my knowledge, I did not

have any conversation with her during that period of 1 2 time. As I say, I think it was a fairly short period 3 of time, perhaps hours, perhaps a couple of days. 4 Did you ever discuss the appointment of 5 Beverly Bassett -- or did you ever discuss the 6 appointment of Beverly Bassett-Schaffer with 7 Mr. Clinton or did Mr. Clinton ever discuss it with 8 you? 9 Α Not that I recall. 10 O Did Mrs. Clinton ever discuss the appointment of Beverly Bassett-Schaffer with you? 11 12 Not that I recall. Α 13 0 Do you know who Archie Schaffer is? 14 Α Yes. 15 0 Who is Archie Schaffer? 16 He is currently employed as governmental relations person for Tyson Foods and various other 17 incarnations. He served on Senator Bumpers's staff 18 when Senator Bumpers was governor, and he was a staff 19 person for a group of Arkansas business people that 20 existed for a couple of years that promoted advances 21 22 in reforms in education that was colloquially 148 1 referred to as the good suit club. 2 Do you know of any contacts between Mr. or 3 Mrs. Schaffer and the President, in regard to her 4 appointment? 5 Α No. 6 Do you know of any discussions between Mr. 7 and Mrs. Schaffer and Mrs. Clinton in regard to her 8 appointment? 9 Α No. 10 How would you characterize the relationship 11 between Beverly Bassett-Schaffer and Archie Schaffer 12 and the Clintons? 13 I wouldn't try and characterize it. 14 O I was instructed that I asked some compound 15 questions. Do you know if Archie Schaffer had any contact with Governor Clinton about the appointment 16 17 of Beverly Bassett-Schaffer? 18 A Not that I am aware of. 19 Do you know if Archie Schaffer had any 20 contact with Mrs. Clinton about the appointment?

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Not that I'm aware of.

Do you know of any contact that Archie

149 1 Schaffer had with Betsey Wright about the appointment of Beverly Bassett-Schaffer? 2 3 Not that I'm aware of 4 Do you know of any contact 5 Mrs. Bassett-Schaffer had with Governor Clinton about 6 her appointment? 7 Well. I assume she had some conversations 8 with him about it. 9 Has that knowledge ever been presented to 10 vou? 11 Has anybody ever described those 12 conversations to me? No. But do I assume the 13 governor had a conversation with her before he appointed her to the position, certainly I assume 14 15 that occurred. 16 Do you know of any conversations between 0 17 Beverly Bassett-Schaffer and Mrs. Clinton concerning 18 her appointment? 19 Α No. 20 Do you know of any conversations between 21 Beverly Bassett-Schaffer and Betsey Wright concerning 22 her appointment? 150 1 I am generally aware that Betsey had one or 2 more conversations with her. 3 How did you become generally aware of that? 0 4 From Betsey, I would imagine. A 5 Do you recall what Betsey Wright said to 0 you about that? 6 7 No. I don't recall. Α 8 Are you able to characterize the 9 relationship between the Clintons and the Schaffers? 10 A No. 11 0 Do you know if they saw each other 12 socially? 13 I don't know whether they saw each other 14 socially or not. 15 Were you aware that Mrs. Schaffer's role as 16 banking commissioner would put her in an oversight capacity over Madison Guaranty? 17 18 She was securities commissioner, not banking commissioner. 19 20 Securities commissioner, I'm sorry. O 21 Α Yes. 22 Q Were you aware at the time of her

1 appointment that Mrs. Clinton was doing work for 2 Madison Guaranty? 3 At some point I knew that the Rose firm did some work for Madison. I don't know when I first 4 5 became aware of that. 6 Do you know who at the Rose firm was doing 7 work for Madison? 8 No. Α 9 Did you become aware of the Rose Law Firm's 10 representation of Madison prior to Ms. Bassett-Schaffer's appointment? 11 I don't know whether it was prior to or 12 13 subsequent to. I don't recall. 14 Do you have any recollection generally as to the time that you became aware of Madison's 15 16 representation by Rose Law Firm? No. I don't. 17 18 Did you know that Mrs. Clinton was 0 representing Madison in negotiations with Beverly 19 Bassett-Schaffer, the newly appointed securities 20 21 commissioner, to allow changes for Madison Bank in terms of their capitalization? 22 152 1 MR. PORTNOY: Might I ask when? 2 Contemporaneously? Did he learn later? 3 MR. BRENNER: Let's get the first answer 4 before we get the second one. 5 THE WITNESS: I don't recall whether I knew 6 that contemporaneously with those discussions or 7 not. 8 BY MR. BRENNER: 9 Did there come a time where you became 10 aware of Mrs. Clinton's representation of Madison 11 before Beverly Bassett-Schaffer in her official 12 capacity as liaison to the securities commission? 13 At this point I don't recall whether I knew that the First Lady had any direct involvement in 14 that issue or not, contemporaneously with it going 15 16 on. 17 Did Mrs. Clinton ever mention to you her 0 18 work for Madison before Beverly Bassett-Schaffer? I have absolutely no recollection of her 19 ever talking to me about that. 20

Did Betsey Wright ever mention to you the

representation by the Rose Law Firm of Madison before

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1 Beverly Bassett-Schaffer? 2 We may have talked about it. I don't have 3 any specific recollection of it, but it's certainly 4 possible.

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Did Governor Clinton ever mention to you his wife's work for Madison before Beverly Bassett-Schaffer and the securities commission?

I certainly have no recollection of the governor ever talking to me about the First Lady's representation of Madison.

As a lawyer and also as an employee of the governor, when you became aware that Mrs. Clinton was representing Madison before Governor Clinton's newly appointed securities commissioner, did that cause you to have concern in terms of the perception of that?

MR. PORTNOY: Just to clarify the record, the witness hasn't testified that he became aware of that at a time that he was an employee of the governor. He has testified that he's not clear when he learned it. But with that clarification --THE WITNESS: As I said, I don't recall

when I specifically became aware of it, whether it

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was while I was still in the governor's office, it may well have been. If it was, I don't recall having any particular concern about it.

BY MR. BRENNER:

Was there anybody else that you can recall mentioning to you Mrs. Clinton's representation or the Rose Law Firm's representation of Madison before Beverly Bassett-Schaffer?

A I don't recall anyone else mentioning that to me or discussing that with me.

Have you ever heard of a proposal, a preferred stock proposal that was requested by Hillary Clinton to Beverly Bassett-Schaffer during April of 1985?

I am aware of it, yes.

How did you become aware of it?

I don't recall for sure. I think that Beverly Bassett-Schaffer may have made me aware that

19 that proposal had been submitted for their consideration.

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How would she have made you aware? 0

Probably in a telephone conversation.

Do you recall any specifics of the 2 telephone conversation with Beverly Bassett-Schaffer 3 around that time?

No, I don't recall any specifics, specifically recall anything. I would talk with her periodically on various matters that would be pending before the securities department, and I do have a general recollection that I was aware that that proposal had been made. My recollection is that I 9 was unaware that the First Lady had any direct involvement in presentation of the proposal.

Did Ms. Schaffer ever discuss with you any 12 13 other matters? You said that she discussed various 14 matters with you pending before. Any other matters with regard to Madison Guaranty that you can recall? 15

> Yes Α

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What were they? 0

Well, we, throughout the course of I don't

19 know, a year, year and a half, had various

20 conversations about the status of Madison Guaranty,

including conversation shortly before McDougal was 21

removed by federal regulators. I mean, I don't know 22

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how many conversations we had about it, several, over 1 2 the period of time that Madison's problems became

3 more and more apparent.

Were there other specific institutions that 4 5 Ms. Schaffer would speak with you about?

0 Which institutions, do you recall?

8 There was an institution in Harrison that failed, Guaranty Savings, that I think may have had a 9 state charter. There was one in Hot Springs that was 10 state chartered that -- maybe Landmark -- that 11 12 doesn't sound right, but an institution that was a 13 state chartered one that was in similar 14 capitalizations of problems to Madison, perhaps one 15 or two others.

16 Regarding the preferred stock issue, do you 17 recall if there was more than one phone call between 18 you and Ms. Schaffer about that?

I don't recall. It was probably something 19 she mentioned to me in a telephone conversation that 20 21 went on an hour or so. I would talk to Beverly

Bassett-Schaffer maybe every two or three weeks. The 22

1 conversation would generally be fairly wide ranging
2 and would go on from 45 minutes to an hour and a half
3 or two hours and just touch on a number of things
4 that they would be involved with. Sometimes it would
5 be shorter than 45 minutes perhaps, but conversations
6 with Ms. Schaffer generally tended to drag on for
7 some period of time.

Q Did you ever take notes of any of those conversations?

A I did, of some of them.

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Q Do you know where those notes are?

A No. Most of the handwritten notes that I had in my files I threw out when I left the governor's office. Any memoranda that were of a more permanent nature, similar to some of the documents that you have here, would have been left in the files in the governor's office, and I have no idea where those documents might be at this point.

Q Did you retain any notes or any documents in your personal possession after you left the governor's office?

A None that I currently have.

Q What subsequently happened to anything that you may have removed?

A I had, oh, a couple of DayTimers that I kept for another year or so and then threw out that would have had some meetings and notes and calendars and that sort of thing in them, which I routinely would keep those for a couple of years after the year covered by it and then would throw them out.

Q After your discussions or discussion with Beverly Bassett-Schaffer regarding the preferred stock proposal presented by Madison, did you discuss your discussion with Beverly Bassett with anyone else from the governor's office?

A Not that I recall, and I don't know that it's accurate to characterize it that we had a discussion about it. I think she mentioned to me that Madison had made such a proposal. I don't think we had a lengthy discussion about it. I think she simply made me aware that that proposal had been submitted to the department.

Q Do you recall mentioning that discussion -- the mentioning of it to you to anyone else?

159 As I said, it's 10 years. I may well have 1 2 mentioned it to Betsey, I may not have. I simply don't have any recollection one way or another of 3 whether I mentioned it to anybody else. 4 MR. BRENNER: Off the record. 5 6 (Discussion off the record.) 7 BY MR. BRENNER: 8 We were talking about Beverly Bassett-Schaffer and her discussions. Did she 9 discuss other Madison issues with you besides the 10 11 preferred stock proposal? 12 Yes Α 13 What other issues do you recall? 14 A Well, periodically just generally the 15 status of Madison and what was likely to happen with 16 it. 17 Now, when did these discussions start 18 occurring? 19 Oh, sometime six to 12 months before the 20 time that McDougal was ousted as chairman of the 21 board probably. 22 Q Did Governor Clinton ask you to keep track 160 1 of Madison's status? I don't recall him specifically asking me 2 3 to keep track of Madison status. Do you recall him generally asking you to 4 5 keep track of the status of any banks? 6 It would have been part of my general responsibilities to keep up with any financial 7 8 institutions that the securities department or the 9 bank department thought were in trouble with 10 regulators or had capitalization problems and that 11 some regulatory activity, either by state or federal agencies, would be required. That's part of what I 12 13 did was talking with agency directors, to keep up 14 with those sorts of issues. Did anyone else other than Governor Clinton 15 specifically instruct you or instruct you to keep 16 17 track of Madison? 18 Not that of I have any recollection of. 19 Who did you discuss Madison related -- did 20 you discuss Madison issues with anyone from the 21 banking department?

I don't recall. I mean, it's possible, but

1 I don't have any recollection. 2 Q Do you recall who was head of the banking 3 department at that time, the time being '85 and '86? 4 I think Jackson was head of the banking 5 department at that point. 6 Did you have regular discussions with 7 Mr. Jackson? 8 Α Yes. 9 Do you recall in the course of those 10 discussions, did Madison come up? 11 I don't have any recollection of it. It's entirely possible. Marlon always had plenty of 12 13 opinions on things within and without his iurisdiction, so it's possible that he may have made 14 15 some reference to it. 16 After discussing Madison issues with 17 Beverly Bassett-Schaffer, did you then subsequently 18 discuss your discussions with Beverly 19 Bassett-Schaffer with the governor? 20 On occasions I would, if -- probably not 21 every time I had a conversation with Beverly 22 Bassett-Schaffer in which Madison was mentioned would 162 1 I have a follow-up conversation or memorandum to the 2 governor. There would have been occasions when I 3 would either give him an oral report or perhaps send 4 him a short memo about it, but not on every 5 occurrence where she and I had a conversation in 6 which Madison was mentioned. 7 Do you recall any specific occasions? 0 8 I think a specific occasion, I think I 9 probably wrote him a memorandum, either shortly 10 before or shortly after or possibly both, the action 11 of the FSLIC enforcing McDougal out at Madison, I 12 think I probably wrote him a memo about probably one, 13 in advance that it was likely to happen, and perhaps 14 a subsequent one that it had happened. 15 Did you have any discussions about those 16 memos with the governor? 17 I don't recall whether I did. I may well 18 have. 19 With regard to other institutions that 20 Mrs. Schaffer spoke to you about, did you

subsequently report to the governor about any of

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those institutions?

A Yes, I'm sure we had the same type of -either an oral update or brief memo, status of some other institutions besides Madison.

Q Do you have any specific recollections?

A No, not really specifically.

Q No other institutions that you can specifically recall briefing the governor about?

A Well, as I said, I think there was an institution at Hot Springs which name was Landmark or something like that, I think I probably -- that was operated, I think the phrase the regulators used at that point was brain-dead for some period of time, vastly undercapitalized, but way down on the list for the FSLIC, or Federal Home Loan Bank to close. And there was an institution in north Arkansas that we had problems with, Guaranty Savings, that we had a number of discussions about.

I'm not sure whether Guaranty was a state chartered institution at this point, but that we had a number of discussions about that because there was a fair amount of state money in there, and there were some questions about the extent of the state's

insurance coverage when that institution failed.

Q But you specifically remember writing a memo to the governor or at least one memo to the governor about Madison?

A I'm pretty sure I wrote him a memo and as I say, either before or after the federal regulators' action to remove McDougal.

Q But you have no specific recollection about any of the other S&Ls that Beverly Bassett was charged with overseeing?

A Do I have a specific recollection about what?

Q About memoing the governor on the other institutions, or briefing him.

A I think I've already said that there were other institutions that were somewhat similarly situated to Madison that Bassett discussed with me and that I would have subsequently made the governor aware of, either by an oral briefing or by a short memo.

Q Do you know Paul Mallard?

A Yes, I know Paul Mallard.

660 165 1 0 How do you know Paul Mallard? Paul Mallard was director of state building 2 3 services for a period of time. 4 When did you meet Paul Mallard? O 5 Α I don't recall when I first met him. 6 Did you ever discuss with him any of the 7 leasing responsibilities that Mr. Mallard had? 8 Certainly. 9 0 And why did you do that? 10 I had liaison responsibilities with state 11 building services. 12 And did Mr. Clinton, then Governor Clinton, 13 ever instruct you to talk to Mr. Mallard about 14 specific leasing arrangements? 15 I'm sure he probably did. Do you have any particular recollections? 16 No. There were always various disputes 17 about leasing, actions about SBS or the agencies that 18 19 they were acting as agents for and going on. Do you recall any contractual relations 20 that Mr. Mallard may have entered into on behalf of 21 22 the state of Arkansas in terms of leasing space from 166 Madison Guaranty Savings & Loan? 1 2 I am aware that state did lease space from 3 Madison, or a subsidiary of Madison. When did you become aware of that? 4 5 Sometime prior to the state leasing that A 6 space. 7 What was your opinion of that lease 0 arrangement, if you recall specifically? 8 I don't recall what my specific opinion 9 10 was. 11 As a general rule, would Mr. Mallard's 12 agency take the lowest available bid for space? 13 Not necessarily.

What else would influence that decision?

A Could be any number of factors, but depending on the type of facility that was being

leased and what the needs of the agency were and so

forth. For example, you might have a facility for a

facilities wanting to lease, one which had two

county DHS office that you would have two competing

parking places and one which had 15, and the agency

thought they needed 15 parking places, not two, but

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the two-parking-place facility was a lower square foot rate so you wouldn't necessarily take the lowest bid in that situation.

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So each type of leasing situation might have specific factors involved that would be taken into consideration other than the lowest square foot cost.

0 Do you ever recall any discussions that you were privy to or were made -- or were told about subsequent to their occurrence with regard to the decision to move the Arkansas housing development agency into the Madison Guaranty building in 1984?

I was aware that there were discussions about that going on.

How did you become aware of those discussions?

I don't know whether I first became aware of it from a conversation with Mallard or from a conversation with Betsey Wright or perhaps a conversation with Wooten Epes, from one of those three people.

O I'm sorry, could you repeat the last name?

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Wooten Epes. W-o-o-t-e-n. E-p-e-s, I 2 believe is the last name spelling. 3

Who was Mr. Epes? 0

Α He was director of ADFA at that point.

Did Mr. Clinton ever give you any instructions or discuss with you in any way the 1984 Arkansas housing development agency lease of Madison Guaranty space?

Not that I recall. I may well have been in a meeting where that was discussed, but I don't have a specific recollection of it at this point.

Could you characterize the nature and extent of your involvement of state leases of office space by interstate agency, including ADFA and the Arkansas Public Service Commission?

It's difficult to characterize it generally. My involvement occurred only when there was some problem or dispute involving a lease or a leasing decision, and I didn't routinely review all the leasing actions taken by the agency.

When there would be problems either involving the agency and a landlord or potential

- 1 landlords or between SBS and an agency that it was
- 2 leasing space for and there was some type of problem,
- it might well reach the level of the governor's 3
- 4 office, in which case I was generally involved in it.
- 5 Did Betsey Wright have any involvement, to 6 your knowledge?
- 7 Α Yes
- 8 O And what was her involvement?
- 9 Generally same type of involvement that I 10 would have, and that would be to attempt to resolve 11 whatever the problem was.
- 12 Are you familiar with the Arkansas science 13 and technology authority?
- 14 Α Yes.
- 15 0 How are you familiar with that institution?
- 16 It was an agency that was created by 17 statute enacted during the time I was on the
- 18 governor's staff, and it was an initiative proposed
- 19 by Governor Clinton.
- 20 Are you familiar with a lease by the
- 21 Arkansas science and technology authority of space at
- 22 100 Main Street, which was a building owned by

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1 Madison Guaranty?

- 2 Is that the building that is characterized 3 as a bus station, former bus station? I think that's 4 probably the same facility. Yes, I'm aware.
- 5 Were you involved in the decision by the
- 6 Arkansas science and technology authority to lease 7 that space?
- 8 Not that I have any recollection of. Α
- 9 0 Was Betsey Wright involved?
- 10 Α I don't have any knowledge whether she was 11 or not.
- 12 Was Governor Clinton involved? 0
- 13 Α Not that I know of one way or the other.
- 14 Do you have any recollection of any
- 15 discussion with Governor Clinton where state leases 16 of Madison Guaranty owned property were discussed?
- 17 I may well have been in a meeting where the
- 18 lease of space in the Madison building was 19
 - discussed. I don't have a specific recollection of
- 20 being in a meeting with the governor where that was
- 21 discussed, but it is entirely possible that I was.
- 22 And do you recall who else would have been

at those meetings?

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Since I don't recall specifically having been in such a meeting, I wouldn't have any way of 3 4 knowing who would have been there.

O Do you recall discussing or being told about state leases of Madison Guaranty owned or controlled space with Betsey Wright?

I think I probably had some discussion with her regarding the lease of the space in the Madison Bank building.

Do you recall specifically any part of that conversation or conversations?

No, I don't recall specifically. What I recall is that the agency, director at least, didn't particularly want to move there, had some other location I think that he preferred and state building services had made the decision to locate the agency in the Madison space. And the director, it may have been the housing agency at that point and then became

ADFA. I don't remember which it was at the time --20

> That's the case. 0

But Wooten didn't particularly want to go Α

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into the Madison space. I don't remember where he wanted to go, but he wanted to go someplace else, so he eventually brought that dispute to the governor's office.

And what do you recall about that dispute? 0

That's what I recall about it, was that

Mallard had made the decision to rent the Madison space and Wooten Epes didn't want to go there, so that's basically what I remember about that.

O Do you have any knowledge of any discussions between Paul Mallard and Governor Clinton about leasing Madison space?

I don't have any specific recollection. Α

Were you told by any party, including Betsey Wright, about the leasing of the Madison space by the state agency?

Told what about it?

Were you told that the governor instructed Paul Mallard, if possible, to lease space from

20 Madison Guaranty?

> I don't recall ever having been told that the governor had directed Mallard to lease space from

173 1 Madison, if possible. 2 Do you recall whether you have been told 3 that the governor was interested in seeing Madison 4 space leased by the state agency? I don't have any recollection of that at 5 6 this point. 7 I'm curious, did you ever collect 8 information related to examinations of Madison 9 Guaranty by either state or federal examiners? 10 I'm not following your question. 11 MR. O'CALLAGHAN: Excuse me, Mark, do vou mind if we take a quick break here before your 12 13 question? 14 MR. BRENNER: Off the record. 15 (Discussion off the record.) MR. BRENNER: Could you please read the 16 17 last question. 18 (The reporter read the record as requested.) 19 THE WITNESS: You mean did I personally 20 obtain and review audit documents, that type of 21 thing? I'm not sure what you're asking. BY MR. BRENNER: 22 174 1 I mean, were you told by any regulators, either state or federal, or did you receive letters, 2 notes, documents, memoranda from state or federal 3 regulators or examiners about Madison Guaranty? And 4 5 if so, when did you start to collect that 6 information? 7 As I had indicated earlier, I received periodic oral briefings from Beverly Bassett-Schaffer 8 about the status of Madison. I think I probably 9 10 received copies of some correspondence between the 11 federal regulators and Madison in the late stages before McDougal was ousted. I'm not sure. I have a 12 general recollection that Schaffer sent me a copy of 13 14 a document that the Federal Home Loan Bank officials and/or the FSLIC had sent to Madison. 15 16 Do you recall any discussions with 17 Ms. Schaffer after she returned from Dallas from the 18 1986 Federal Home Loan Bank Board meeting in Dallas, 19 Texas?

I recall we had a conversation subsequent

to that meeting in which she told me what had

occurred in the course of the meeting.

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What do you recall she told you? 1 0

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A Basically, that the federal regulators had forced McDougal's ouster as the chairman of the board and didn't, in any other way, have operating responsibilities of the S&L.

Was she concerned that the governor may be critical in her oversight in light of the Federal Home Loan Bank Board came in and issued a cease and desist order?

No, not at all. She had been suggesting to the Federal Home Loan Bank Board and FSLIC for some period of time that that should have been done. As I understood the process at that point in time, the

federal regulators had a priority system in which 14

they dealt with troubled institutions. And based on 15 16

the availability of audit staff and funds to pay off depositors, and that they were working down a list 17

18 from the larger institutions in which more money was

19 involved toward the smaller institutions. And that

20 the primary reason that action had not been taken in

21 the Madison situation earlier had been a matter of

22 federal priorities, not a state decision, since we

176

1 didn't have a state guaranty fund.

2 Did you ever prepare or review legislation 3 on bank regulation or oversight? 4

Did I ever review or prepare --

5 Legislation. You spoke of your legislative O 6 role?

I'm certain at various times I would have reviewed legislation that would have been prepared by the securities department or the bank department dealing with their regulatory authority.

Do you recall any specific instances where Madison Guaranty had an interest in that legislation that was expressed to you?

Not in any sort of general way, no.

Did you have any discussions with Betsey Wright about the potential impact of any legislation on Madison Guaranty?

I don't recall. I mean there -- anything of that nature offhand.

Did you have any discussions with Governor Clinton about Madison Guaranty and its financial crisis?

177 1 I think I've said more than once, I did. 2 O When did you first discuss the particular 3 concerns? 4 Α Sometime six, 12 months, perhaps longer 5 before McDougal was ousted, at whatever point I 6 became aware through discussions with Beverly 7 Bassett-Schaffer that the institution was in financial trouble. I don't remember exactly how long 8 that was before McDougal was finally ousted. 9 10 0 What was his reaction? 11 I think his reaction was something to the Α 12 effect of just keep him advised if there were further 13 developments. 14 And did you? 0 15 Α Yes. 16 0 And did you discuss with him the actions 17 taken by the Federal Home Loan Bank Board in 1986? 18 I'm sure I did. I don't have a specific 19 recollection of it, but I'm sure I did, either by 20 memorandum or by an oral briefing. 21 Did you ever discuss any Madison-related 22 issues with Mrs. Clinton? 178 1 Not that I have any recollection of. Α 2 Did you ever discuss Madison Guaranty's 3 economic troubles with Betsey Wright? 4 Α Yes. 5 0 What was said in those discussions? 6 What I recall is that I would -- basically 7 anything I had reported to the governor, I probably 8 told her the same thing, or oftentimes she may well have been present when I told the governor what 9 information I might have received. 10 11 Did you ever discuss with John Latham 12 Madison's economic problems? 13 I don't have any recollection of having any conversations with John Latham. 14 Do you know who John Latham is? 15 0 16 Α Yes. 17 Q Who is John Latham? 18 I think he was a Madison officer and I 19 think may have had the title of President. Do you know who Greg Young is? 20 Q 21 Α Not right offhand.

Do you know who Don Denton is?

22

Q

			1/9
1			
2		r, I don't recall	
3			
4		ny discussions with	
5			
6			
7		h Ward is?	
8			
9			
10			
11	*	e Rock airport	
12			
13			
14		-	
15	*	a city appointment,	
16	* *		
17		Ward at the	
18			
19			
20			
21		uld recognize Seth	
22	Ward if I saw him.		
			100
			180
1	Q Did you ever have any	discussions with Seth	180
1 2	Q Did you ever have any Ward about any issues related to	discussions with Seth	180
1 2 3	Q Did you ever have any Ward about any issues related to A I don't think so.	discussions with Seth Madison Guaranty?	180
1 2 3 4	Q Did you ever have any Ward about any issues related to A I don't think so. Q Any discussions with E	discussions with Seth Madison Guaranty?	180
1 2 3 4 5	Q Did you ever have any Ward about any issues related to A I don't think so. Q Any discussions with E Seth Ward?	discussions with Seth Madison Guaranty?	180
1 2 3 4 5 6	Q Did you ever have any Ward about any issues related to A I don't think so. Q Any discussions with E Seth Ward? A Not that I have any particular and the set of the	discussions with Seth Madison Guaranty?	180
1 2 3 4 5 6 7	Q Did you ever have any Ward about any issues related to A I don't think so. Q Any discussions with E Seth Ward? A Not that I have any par of.	discussions with Seth Madison Guaranty? Betsey Wright about ticular recollection	180
1 2 3 4 5 6 7 8	Q Did you ever have any Ward about any issues related to A I don't think so. Q Any discussions with E Seth Ward? A Not that I have any par of. Q Any discussions with C	discussions with Seth Madison Guaranty? Betsey Wright about ticular recollection	180
1 2 3 4 5 6 7 8 9	Q Did you ever have any Ward about any issues related to A I don't think so. Q Any discussions with E Seth Ward? A Not that I have any part of. Q Any discussions with C Seth Ward?	discussions with Seth Madison Guaranty? Betsey Wright about ticular recollection	180
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181
    McDougal in Whitewater Development Corporation?
 1
2
             As I had said earlier, it is my
3
    recollection that one year Betsey Wright was in the
    process of preparing a financial disclosure statement
4
5
    that the governor and all elected state officials
6
    were required to file on an annual basis, and there
7
    was some question as to how the governor and First
8
    Lady's interest in that venture should be reported
    and that she had discussed that with me. That is my
9
10
    recollection of how I first became aware. I may have
11
    known of it in some general way before that time, but
    I think that's the first time.
12
             Do you recall when that discussion with
13
14
    Betsey Wright took place?
15
             No, I don't.
16
             Did Mr. Clinton ever discuss with you his
    tax liabilities in relation to Whitewater?
17
18
             No
19
             Did Betsey Wright ever discuss with you
20
    Mr. Clinton's tax liabilities in relation to
21
    Whitewater?
22
        A Not that I recall.
                                                             182
 1
             Did Mrs. Clinton ever discuss the
 2
    governor's tax liabilities?
 3
        Α
             No.
 4
             Did she ever discuss her own tax
        0
 5
    liabilities?
 6
        A
 7
             Did you discuss with anyone the tax
 8
    liabilities of Mr. and Mrs. Clinton with regard to
 9
     Whitewater Development Corporation?
10
             If the question is along in that period of
11
    time, no. Have I had coffee shop conversation in the
12
     last couple of years about reported problems about
13
    that, sure, everybody in Little Rock has talked about
14
    the coverage of it.
15
             Have you ever met the late Vincent Foster?
         0
16
         Α
17
             When did you meet him?
         0
18
         Α
             I don't recall.
19
             Do you have a general recollection of the
20
     first time you met him?
             Oh, probably sometime in the late '70s,
21
22
     early '80s I imagine.
```

183 Was he, as you understand it, already at 1 2 the Rose Law Firm at that time? 3 Α I am sure he was 4 O And do you recall how you came to meet 5 Mr. Foster? 6 No. 7 Did Mr. Foster ever come to the governor's O 8 office? 9 Α I'm sure he has. I don't recall specific 10 situations. 11 Did you ever discuss Whitewater Development 12 Corporation or anything related to Whitewater Development Corporation with Mr. Foster? 13 Not that I recall. 14 Did Mr. Clinton ever discuss with you his 15 personal financial condition? 16 I don't have any recollection of that ever 17 occurring. I think it very unlikely that he would 18 19 have. 20 Did Mrs. Clinton ever discuss their 0 21 personal financial condition with you? 22 No. 184 1 Have you ever met Chris Wade? 2 Not as far as I know. Α 3 Do you know who Chris Wade is? 0 4 A Yes. 5 How do you know Chris Wade? 0 6 From newspaper accounts involving the 7 Whitewater land development that he was a real estate 8 agent who had some involvement in that project. 9 What's your understanding -- you answered 10 that question. Have you ever met Rosalie Wade? 11 Α Not to my knowledge. 12 Do you know who Rosalie Wade is? 0 13 Α I believe the newspaper reports have 14 identified Rosalie Wade as being Chris Wade's wife. Have you ever heard of a place called 15 Campobello Island? 16 17 Α Yes. When did you come to hear that? 18 Q 19 I don't recall. A Do you recall why Campobello Island rings a 20 0

21

22

bell to you?

I don't recall how I first --

Α

185

Q What's your understanding of Campobello

Island as it relates to Madison Guaranty?

A A general understanding that there was some type of real estate venture that involved Madison or one or more of its subsidiaries and various other

investors, including Sheffield Nelson, and I believe

7 Jerry Jones and perhaps others, and that the 8 investment was less than successful.

9 Q Do you recall what other investors?

10 A No, I don't.

2

3

4

5

6

11 Q Are you aware that Beverly

Bassett-Schaffer, before becoming the securitiescommissioner, did work for Madison Guaranty on

14 Campobello Island?

A I don't know whether I'm aware of that or not.

17 Q Are you aware that Jim Guy Tucker's law 18 firm was doing work for Madison Guaranty before 19 Beverly Bassett-Schaffer became the Arkansas 20 securities commissioner?

20 securities com 21 A Yes.

Q How did you become aware of that?

186

1 A I don't know.

Q And you stated earlier you are aware that Beverly Bassett-Schaffer worked for the Tucker law firm?

5 A Yes.

9

10

14

Q Did you know or did Mr. Clinton ever
discuss with you Jim McDougal's involvement in
Campobello Island?

A Not that I recall.

Q Did Betsey Wright?

A She may have in some passing sort of reference, but I don't recall any in-depth discussion about it.

Q Do you recall even the passing discussions?

15 A No, but it's certainly possible that she 16 may have made some mention of it to me.

17 Q Did Mr. Clinton ever mention to you that
18 Mr. McDougal was attempting to get Mr. Clinton to
19 endorse the property as a vacation site?

20 A Not that I recall.

Q Have you had any discussions with anyone other than the people already mentioned about

		187
1	Campobello Island?	
2	A Oh, sure, any number of us here in the last	
3	year or so have joked about Jones and Nelson's	
4	involvement and how they managed to seem to get their	r
5	money back out of that venture and other folks	
6	didn't.	
7	Q What about during your tenure in the	
8	governor's office?	
9	A Not that I recall.	
10	Q Did you ever discuss with Beverly	
11	Bassett-Schaffer anything about Campobello Island or	
12	Mr. McDougal's involvement therein?	
13	A Not that I recall.	
14	Q Do you ever recall seeing a bust of	
15	President Roosevelt that was presented as a gift from	
16	Mr. Clinton to Mr. McDougal?	
17	A No, I don't recall.	
18	Q We spoke earlier about Castle Sewer &	
19	Water, and I want to speak more generally about the	
20	Castle Grande real estate development. Are you	
21	familiar with the Castle Grande real estate	
22	development?	
		188
1	A Only from what I read in the newspapers in	188
		188
1	A Only from what I read in the newspapers in	188
1 2	A Only from what I read in the newspapers in the last year.	188
1 2 3	A Only from what I read in the newspapers in the last year. Q You didn't come to know of it at any point	188
1 2 3 4	A Only from what I read in the newspapers in the last year. Q You didn't come to know of it at any point in time during your tenure in the governor's office?	188
1 2 3 4 5	A Only from what I read in the newspapers in the last year. Q You didn't come to know of it at any point in time during your tenure in the governor's office? A I don't believe so. I mean I might have	188
1 2 3 4 5 6	A Only from what I read in the newspapers in the last year. Q You didn't come to know of it at any point in time during your tenure in the governor's office? A I don't believe so. I mean I might have heard some mention of it as being a McDougal	188
1 2 3 4 5 6 7	A Only from what I read in the newspapers in the last year. Q You didn't come to know of it at any point in time during your tenure in the governor's office? A I don't believe so. I mean I might have heard some mention of it as being a McDougal development or it being hearing it advertised on	188
1 2 3 4 5 6 7 8	A Only from what I read in the newspapers in the last year. Q You didn't come to know of it at any point in time during your tenure in the governor's office? A I don't believe so. I mean I might have heard some mention of it as being a McDougal development or it being hearing it advertised on the radio, but in terms of any sort of knowledge	188
1 2 3 4 5 6 7 8 9	A Only from what I read in the newspapers in the last year. Q You didn't come to know of it at any point in time during your tenure in the governor's office? A I don't believe so. I mean I might have heard some mention of it as being a McDougal development or it being hearing it advertised on the radio, but in terms of any sort of knowledge beyond that, no.	188
1 2 3 4 5 6 7 8 9	A Only from what I read in the newspapers in the last year. Q You didn't come to know of it at any point in time during your tenure in the governor's office? A I don't believe so. I mean I might have heard some mention of it as being a McDougal development or it being hearing it advertised on the radio, but in terms of any sort of knowledge beyond that, no. Q Did you ever discuss with the governor the	188
1 2 3 4 5 6 7 8 9 10	A Only from what I read in the newspapers in the last year. Q You didn't come to know of it at any point in time during your tenure in the governor's office? A I don't believe so. I mean I might have heard some mention of it as being a McDougal development or it being hearing it advertised on the radio, but in terms of any sort of knowledge beyond that, no. Q Did you ever discuss with the governor the Castle Grande real estate development, Governor	188
1 2 3 4 5 6 7 8 9 10 11 12	A Only from what I read in the newspapers in the last year. Q You didn't come to know of it at any point in time during your tenure in the governor's office? A I don't believe so. I mean I might have heard some mention of it as being a McDougal development or it being hearing it advertised on the radio, but in terms of any sort of knowledge beyond that, no. Q Did you ever discuss with the governor the Castle Grande real estate development, Governor Clinton?	188
1 2 3 4 5 6 7 8 9 10 11 12 13	A Only from what I read in the newspapers in the last year. Q You didn't come to know of it at any point in time during your tenure in the governor's office? A I don't believe so. I mean I might have heard some mention of it as being a McDougal development or it being hearing it advertised on the radio, but in terms of any sort of knowledge beyond that, no. Q Did you ever discuss with the governor the Castle Grande real estate development, Governor Clinton? A Not that I have any recollection of.	188
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1 2 3 4 5 6 7 8 9 10 11 12 13 14 15	A Only from what I read in the newspapers in the last year. Q You didn't come to know of it at any point in time during your tenure in the governor's office? A I don't believe so. I mean I might have heard some mention of it as being a McDougal development or it being hearing it advertised on the radio, but in terms of any sort of knowledge beyond that, no. Q Did you ever discuss with the governor the Castle Grande real estate development, Governor Clinton? A Not that I have any recollection of. Q Did you ever discuss the Castle Grande real estate development with Betsey Wright?	188
1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18	A Only from what I read in the newspapers in the last year. Q You didn't come to know of it at any point in time during your tenure in the governor's office? A I don't believe so. I mean I might have heard some mention of it as being a McDougal development or it being hearing it advertised on the radio, but in terms of any sort of knowledge beyond that, no. Q Did you ever discuss with the governor the Castle Grande real estate development, Governor Clinton? A Not that I have any recollection of. Q Did you ever discuss the Castle Grande real estate development with Betsey Wright? A Not that I have any recollection of.	188
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1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20	A Only from what I read in the newspapers in the last year. Q You didn't come to know of it at any point in time during your tenure in the governor's office? A I don't believe so. I mean I might have heard some mention of it as being a McDougal development or it being hearing it advertised on the radio, but in terms of any sort of knowledge beyond that, no. Q Did you ever discuss with the governor the Castle Grande real estate development, Governor Clinton? A Not that I have any recollection of. Q Did you ever discuss the Castle Grande real estate development with Betsey Wright? A Not that I have any recollection of. Q Did you ever discuss the Castle Grande real estate development with Mrs. Clinton? A No. Q Did someone other than the Clintons and	188
1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19	A Only from what I read in the newspapers in the last year. Q You didn't come to know of it at any point in time during your tenure in the governor's office? A I don't believe so. I mean I might have heard some mention of it as being a McDougal development or it being hearing it advertised on the radio, but in terms of any sort of knowledge beyond that, no. Q Did you ever discuss with the governor the Castle Grande real estate development, Governor Clinton? A Not that I have any recollection of. Q Did you ever discuss the Castle Grande real estate development with Betsey Wright? A Not that I have any recollection of. Q Did you ever discuss the Castle Grande real estate development with Bright. A Not that I have any recollection of. Q Did you ever discuss the Castle Grande real estate development with Mrs. Clinton? A No.	188

672 189 1 Grande? 2 A Not that I recall 3 Did anyone ever mention to you that 4 Mrs. Clinton performed legal work in association with 5 Castle Grande? 6 Α Not that I recall. 7 0 Have you ever heard of the Industrial 8 **Development Corporation?** 9 The Industrial Development Corporation? 10 Yes, sir. 0 11 A I don't know whether I have or not. 12 Would it jar your memory if I told you that 13 the Industrial Development Corporation was the owner 14 of the Castle Grande real estate from Mr. McDougal 15 and Madison Guaranty? 16 A Not particularly. 17 What was your understanding of the 18 relationship between Mr. McDougal and Mr. Ward? 19 I don't have any understanding of what 20 their relationship was. 21 Have you ever heard of "wet/dry 22 legislation"? 190 1 A Sure. 2 And this is in relation to alcohol service? 0 3 A 4 Have you ever, in your capacity in the 5 governor's office, come across -- did you come across 6 the issue of a brewery being opened at Castle Grande? 7 A Not that I recall. 8 Did you ever come to know that Jim McDougal 9 was seeking to have a brewery opened at Castle 10 Grande? 11 Α Not that I recall. 12 Did Mr. Clinton ever approach you about 13 legislation allowing a brewery in the state of 14 Arkansas to have a tasting room on its premises? 15 A I don't recall. 16 Did Betsey Wright ever approach you about 17 legislation to allow a brewery to have a tasting room 18 on the premises?

Q In your oversight capacity for legislation, do you recall any legislation that would allow a brewery to have a tasting room on the premises?

Not that I recall.

19

A

A I don't recall, but as I said earlier, we probably had a couple of thousand pieces of legislation at every regular session of the general assembly, and I certainly don't remember nearly all of them

Q Did you have any contacts with anyone from the alcohol control board about legislation affecting wet/dry legislation?

A I'm sure when legislation was pending that affected the operation of ABC or ABC administration or ABC enforcement, that I probably had conversations with agency officials about it. I can't give you a specific.

Q Do you have any recollection of any discussions you had with anyone related to the alcohol control board regarding the brewery at Castle Grande?

A I don't recall knowing anything about a brewery at Castle Grande.

Q Do you know William Lyon?

21 A No.

1 2

Q I wanted to speak briefly about Maple Creek

Farms and the health department. You stated earlier that you recall having discussions or being in a room where discussions took place over Jim McDougal's sewage problems at Maple Creek Farms?

A I think what I indicated was that I was

aware that there was a controversy between McDougal and the Health Department which eventually McDougal brought to a level of the governor's office. I don't know whether I was actually in a meeting where that was discussed or not. It is entirely possible I may have been in a meeting where that issue was discussed.

Q Do you recall any discussions or communications between Mr. McDougal and Governor Clinton about that issue?

A I don't recall specifically any communications.

Q Do you recall generally?

A No. I'm aware that there were some communications from McDougal to the governor's office about the problem. I don't, at this point, recall whether they were orally or in writing or both.

193 1 Do you recall any discussions you had with 2 Betsey Wright about Maple Creek Farms or 3 Mr. McDougal's problems with the Health Department? 4 Just again, generally probably more so, 5 just being in a meeting where that, among other 6 issues, was being discussed. 7 Do you know Janice Choate? 0 8 A Yes. 9 Who is Janice Choate? 0 10 Janice Choate at the period of time that 11 we're discussing was a staff person in the governor's 12 office who worked on health and human services issues 13 and she worked under the direction and supervision of 14 Carol Rasco. 15 Q And do you recall having any discussions 16 with Janice Choate or being involved in any 17 discussions with Janice Choate discussing the Maple Creek Farms sewage problem on Mr. McDougal's property 18 19 with the health department? 20 If I was at a meeting that it was being 21 discussed, it was probably either discussed by Janice Choate or Carol Rasco, but I don't specifically 22 194 recall being in a meeting where it was discussed. I 1 2 was generally aware of the dispute. 3 Have you had any communications with anyone 4 from the state health department about Maple Creek 5 Farms? 6 A I don't recall that I had. 7 O Have you ever heard the name Lex Dobbins? 8 I don't recall. A 9 Q Do you recall Janice Choate ever mentioning 10 the removal of Lex Dobbins from his position? 11 I don't recall who Lex Dobbins is. Do you recall ever hearing the name Lex 12 0 13 Dobbins? 14 I don't recall hearing the name Lex A 15 Dobbins. 16 Do you recall attending any meetings where 17 Mr. McDougal discussed either Maple Creek Farms, 18 Castle Grande, Castle Sewer & Water or oversight of 19 Madison Guaranty? 20 I don't think so. I don't recall being in

a meeting in which McDougal discussed any of those 22 issues. I know there was a meeting involving the

21

195 dispute between the health department and Maple Creek 1 2 Farms. I don't think that was it. 3 Do you know who was in attendance at that 4 meeting? 5 Α No. I don't know who was in attendance at 6 that meeting. 7 Would it be likely that Betsey Wright would 0 8 be in attendance for such a meeting? 9 A Yes. 10 Q Do you know who David Hale is? 11 Α Yes. 12 Who is David Hale? 0 13 Α He was formerly a Pulaski County municipal 14 judge. 15 Do you know anything else about Mr. Hale's 16 business interests? 17 That at one point he was the -- I don't 18 know what the title is, manager of a Small Business 19 Investment Corporation. 20 Do you have any information about the 21 appointment of David Hale to his judgeship by 22 Governor Clinton? 196 1 A No, I don't recall any of the specifics. 2 0 Did you know he was appointed by Governor 3 Clinton? 4 I don't recall whether he was appointed by 5 Governor Clinton or not. 6 Were you in any meetings where there was a 7 discussion of about Mr. Hill's appointment to the 8 bench? 9 Not that I recall. A 10 Were you ever consulted in any way about 11 the appointment of David Hale to the bench by the 12 governor? 13 Not that I recall. A 14 0 Have you ever met Mr. Hale? 15 I probably have at some point, but I A 16 couldn't tell you when or where. I don't know when. 17 Have you ever heard of Capital Management? 0 18 A Yes. 19 Q How have you heard of that? 20 I believe that's the small business 21 investment organization that Hale ran. 22 When did you first hear about Capital Q

676 197 1 Management? 2 Α I don't recall. 3 During your tenure in the governor's office, did you ever have any discussions with 4 5 Mr. Hale? 6 Α I don't think so, other than perhaps -- I 7 don't have any recollection of having any official contacts with him. I may have seen him at a 8 9 Democratic Party function or a bar function during the time that I was on the governor's staff, but I 10 don't recall having had any discussions with him on 11 12 any issues involving my responsibilities in the governor's office. 14 Have you ever heard of allegations made by

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David Hale that President Clinton, while still governor, pressured him into making a \$300,000 loan

17 to Susan McDougal?

> I read that in the newspapers. A

19 Do you have any other knowledge about that? 0

20 Α No. I do not.

21 Did Mr. Clinton ever discuss with you or

22 communicate to you in any way any information about

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Capital Management? 1 2

No Α

3 Did Mr. Clinton ever discuss with you or communicate to you in any way any information about 4 5 David Hale?

6 Not that I recall. Α

7 Did Mrs. Clinton ever discuss with you or communicate to you any information about Capital 8 9 Management?

10 A No.

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Did Mrs. Clinton ever discuss with you or

12 communicate with you in any way any information about

13 David Hale? 14

Α No.

Did Betsey Wright ever communicate with you in any way or have discussions with you about Capital Management?

18 Not that I recall.

Did Betsey Wright ever discuss with you or

have communications with you in any way about David 20

21 Hale? 22

A I don't recall. It is possible that we may

199 1 have had some conversations about his judicial 2 appointment or at a later time. I believe there was some type of local judicial pension legislation 3 pending that had primarily been designed to benefit 4 Hale and perhaps a few others and we may have had 5 6 some conversations about that. I think that happened 7 while I was still in the governor's office. 8 I have spoken with you about Jim McDougal. 9 Have you ever met Susan McDougal? 10 Yes. 11 0 When did you meet with Ms. McDougal? 12 '78, '79, sometime along in there. '77 13 mavbe. 14 And do you recall having any meetings with Mrs. McDougal while you were at the governor's 15 16 office? 17 Any meetings with her? Α 18 Any meetings with her. 0 19 Α She tried to sell me a condominium one 20 time. I didn't buy it. 21 MR. BRENNER: Off the record. 22 (Discussion off the record.) 200 1 BY MR. BRENNER: 2 Did you have any discussions with Governor 3 Clinton while you were at the governor's office about 4 Susan McDougal? 5 I'm sure her name may have been mentioned 6 in some discussions that they had at various times in 7 some sort of social way, if not in an announced 8 meeting. 9 Do you recall anything relating to her role as a sales agent for any McDougal or Madison related 10 11 properties? 12 Not any type of substantive conversations. The White Horse thing was kind of a standing joke and 13 various times I was kidded about it, and there may 14 have been some conversations along those lines, but 15 16 any sort of substantive conversations, no. And you were kidded about it because you 17 18 contemplated buying a condominium?

Q Did you ever receive any phone calls from

was a thing that people kind of generally joked

No. I didn't say I was kidded about it. It

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about.

201 1 Mrs. McDougal while you were in the governor's 2 office? 3 Α Not that I recall 4 0 Did you ever talk to Betsey Wright about 5 Mrs. McDougal in terms of her working at Madison 6 Guaranty or in terms of her commission sales? 7 Not that I recall. It's possible. 8 Have you ever met Jim Blair? 0 9 Α Yes. 10 0 When did you meet Mr. Blair? 11 A I'm not sure when I first met him. 12 0 Did you ever have any discussions with 13 Mr. Blair while you worked in the governor's office? 14 Yes. 15 Do you recall any discussions with 0 16 Mr. Blair about the personal finances of the 17 governor? 18 Α No. 19 Do you recall any discussions with 20 Mr. Blair about the commodities trading activities of 21 Mr. Blair? 22 MR. COLE: I'm going to instruct the 202 1 witness not to answer that question. That's 2 explicitly outside the scope of our resolution. 3 MR. BRENNER: Off the record. 4 (Discussion off the record.) 5 BY MR. BRENNER: 6 Back on the record, please. 7 Do you recall having discussions with 8 Mr. Blair while you were at the governor's office? 9 A Yes 10 O What was the nature and extent of those 11 discussions with Mr. Blair? 12 I don't recall specifically. I know that 13 at one point he played some role in trying to reach a 14 resolution of this dispute involving state regulation 15 of AP&L and Arkansas's responsibility for a share of 16 the Grand Gulf nuclear generating station, owned by 17 then Middle South, now Energy Corporation. He was 18 also interested in University of Arkansas, 19 Fayetteville campus. His wife was on the faculty 20 there. There were probably occasions where I talked 21 with Blair about higher ed issues. 22 Did you ever meet Diane Blair?

203 1 Yes. Α 2 When did you meet Diane Blair? 0 3 Oh, late '70s probably. Α Did you ever have any discussions with 4 0 5 Governor Clinton about Mr. Blair? 6 Α Yes. And what was the nature and extent of those 7 0 8 discussions? Some of it would have had to do with Jim 9 Blair's trying to help work out a resolution of the 10 Grand Gulf issue. At a later point probably his 11 12 appointment to the University of Arkansas board of trustees. There may have been others. 13 14 Q Did Mr. Clinton discuss specifically Mr. Blair's appointment to the board of trustees? 15 16 I assume we probably discussed it. I don't recall specifically, but I imagine we did. 17 Was there any discussion about the 18 19 regulation and oversight of Tyson Foods? 20 MR. PORTNOY: Object. 21 MR. COLE: I'll object as outside the scope of the resolution. The resolution clearly 22 204 delineates, and I don't want to take the time to read 1 2 it all into the record, the subject matter of this 3 inquiry. And while there's certainly room for latitude about matters that are reasonably related to 4 5 the things that are listed in the subpoena, I'm 6 sorry, in the resolution, that clearly is not 7 within --8 MR. BRENNER: I'll move forward. 9 Off the record. (Discussion off the record.) 10 11 MR. BRENNER: Back on the record. 12 BY MR. BRENNER: 13 I just wanted to flesh out a little. You 14 stated that you have met Jim Blair, but you don't 15 recall when you met Mr. Blair? 16 Probably sometime in the late '70s. And do you recall in what context you met 17 0 18 Mr. Blair? 19 No. Α 20 Have you ever spoken with -- do you know who Steve Smith is? 21

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Yes.

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Who is Steve Smith? Steve Smith is currently a faculty member at the University of Arkansas, Fayetteville campus. During Governor Clinton's first term as governor, he was a senior member of the governor's staff. With regard to Mr. Blair, other than the nuclear issue that you mentioned and the Favetteville board of trustees issue that you mentioned, did you have any other contacts with him in your professional 9 capacity working for the governor? Higher ed issues generally. 11 Other than higher ed issues? 12 0 Not that I recall specifically at this 13 Α 14 point. When did you first meet Steve Smith? 15 0 Probably in late '76. A 16 And did you have discussions with Mr. Smith 0 17 in your capacity in the governor's office? 18 During Clinton's first term, Smith and I 19 were both on staff, and for a period of time he was 20 more or less my direct supervisor. 21 And after Mr. Smith left the governor's 22 206 office during the second term and subsequent terms, 1 did you have any dealings with Mr. Smith? 2 I don't think I had any dealings with him. 3 I would have seen him from time to time. 4 And what would you talk about with 5 Mr. Smith? 6 Oh, social sort of visit or talk about 7 politics generally. 8 Would you talk about banking or securities 9 issues? 10 Not that I recall. 11 A O When Mr. Smith worked in the governor's 12 office, who did he report to? 13 A Initially he reported directly to the 14 governor. There were three senior staff people who 15 were more or less coequal senior staff people, all of 16 whom reported directly to the governor. After a year 17 or so the staff was reorganized and Rudy Moore became 18 chief of staff and Smith would have reported to Moore 19 at that point. I think he left shortly thereafter. 20 Q Who are the three staff directors? 21 Steve Smith, Rudy Moore and John Danner,

207 1 D-a-n-n-e-r, John Danner. Do you know a gentleman by the name of 2 3 **Bobby Bratton?** I don't think so. 4 Α MR. BRENNER: I believe at this point I 5 have no further questions. Off the record. 6 7 (Discussion off the record.) 8 MR. PORTNOY: I would like the record to reflect that Mr. Nappi will be questioning the 9 witness for a period and that we've discussed it and 10 we have no objection, provided the subjects Mr. Nappi 11 covers are new subjects rather than subjects that 12 have been covered by Mr. Brenner. If they are 13 subjects that have been covered by Mr. Brenner, then 14 we are going to object. 15 16 MR. NAPPI: I can't promise that there will be subjects that I'm not -- that Mr. Brenner did not 17 cover. What I do promise is to focus on the 18 particular issues within the subject areas that 19 20 Mr. Brenner might not have covered. 21 MR. PORTNOY: I'm going to object to the entire proceeding, then. If it's a new subject 22 208 matter, that's fine. If it's going to be going over 1 old ground, I'm going to object to it and we're going 2 3 to have to hash it out before we go forward. MR. BRENNER: Off the record. 4 5 (Discussion off the record.) 6 MR. NAPPI: Let's go back on the record. 7 Let the record indicate that Mr. Nappi will ask several pointed follow-up questions and try to be 8 as expeditious as possible and then we can move on 9 and let the Minority staff ask their redirect 10 questions and try to wrap things up as quickly as 11 12 possible. 13 **EXAMINATION** 14 BY MR. NAPPI: I would like to just discuss Castle Sewer & 15 Water and the veto of the deregulation bill in 1987 16 quickly, a few questions. I would redirect the 17 witness's attention to a document Bates stamped DKRT 18 19 800527. 20 Α Yes.

It's the April 14 dated memo to BC.

MR. PORTNOY: If I might correct the

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    record, I believe it's Bates stamped 572.
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            MR. NAPPI: Did I say 572?
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            MR. PORTNOY: 527.
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            MR. NAPPI: I stand corrected, 572, I
5
    apologize.
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            MR. PORTNOY: No problem.
7
            BY MR. NAPPI:
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        O Regarding this document, and the April 14
    date, prior to this date, you had suggested a veto of
9
    legislation on constitutional grounds to then
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    Governor Clinton: is that correct?
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12
             That's correct.
        Α
             And he had concurred in your agreement?
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14
        Α
             That's correct.
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             Did you ever discuss the telephone call
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    that this document memorializes with Governor
17
    Clinton?
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        Α
             What telephone call?
             Excuse me, it's -- the discussion,
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    Mr. Randolph dropped by, the conversation that this
21
    entailed.
22
             Is your question did I specifically discuss
        A
                                                            210
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    with then Governor Clinton Randolph's having stopped
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    by the office to talk to him?
3
             About this legislation.
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             I don't recall whether I specifically
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    discussed with Governor Clinton the fact that
 6
    Randolph had come by. I did discuss with him on some
 7
    occasions between this date and the passage of the
    final bill the fact that Randolph was angry that the
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9
    bill had been vetoed.
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             Did then Governor Clinton express to you
    his change in position on this legislation or the
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12
    need to resolve this issue after learning of the
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    concerns that Mr. Randolph had?
            MR. PORTNOY: Just for the record, I would
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15
    like to clarify that the question assumes that
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    Governor Clinton changed his position, which was not,
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     I believe, the prior testimony of the witness.
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            BY MR. NAPPI:
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            You're right. That is correct. And I
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     apologize for the phrasing of that question. Let me
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     ask you this question. Did Governor Clinton ever
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     express to you a need to resolve this issue, the
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1 issue being the deregulation of small sewer and water 2 companies?

A It is my recollection that the discussion
or discussions that I had with the governor regarding
this legislation was that if there was a way that the
legislation could be redone in a way that addressed
the constitutional problem and did not create other
problems, then he wouldn't be opposed to considering

9 it at a later time.

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Q Was this after Mr. Randolph's visit?

A I assume it probably was.

Q . Why would you assume that?

A As I had indicated earlier, I think

14 Randolph may well have called the governor's office
15 prior to his coming by, talked to me, not been
16 satisfied with the answer and then came by to see the

17 governor himself.

Prior to Randolph raising the issue, we weren't aware that anyone was upset about the veto of the bill.

Q Why do you believe Randolph may have called prior to this?

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A That is my general recollection is that he called the office and was routed to me, didn't like the answer he got so then showed up to try and talk to the governor directly about it.

Q Did Mr. Tucker, Jim Guy Tucker, that is, ever talk to the governor about this issue?

A As I said earlier, I don't know whether he did or not based on my recollection at this point in time. It is entirely possible that he did. Clearly they communicated in writing based on the letter that you-all had shown me earlier, but I don't recall whether anyone ever told me that Tucker and Clinton talked

Q But Governor Clinton did make it clear that if it could be resolved in a constitutional way, that was acceptable?

A That if the constitutional problem could be resolved and that whatever alternative did not present other problems, that he would not be opposed to having the legislation considered in a special session at some unspecified time in the future.

Q Do you recall the context in which he

expressed this to you? 1

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The context was the discussion about the veto of the bill, and probably there was more than one discussion about it in the period of time between when the bill was vetoed and a special session was convened in June.

He expressed this to you during your briefing of him on why he should veto the legislation?

That's not what I said. Α

11 I'm sorry if I'm not getting it clear. 12 When did he express to you his interest in -- or I

shouldn't say interest -- his amenability to 13

resolving this issue? 14

> At some time after he became aware of the information that was contained in the later memo that I sent him, I would imagine. I don't recall specifically.

19 That later memo being your memo to him that 20 was previously introduced Bates stamped DKRT 21 800574-A?

22 Probably sometime between the 14th of April

and sometime around this memorandum. I don't recall 1 2 specifically whether that would have been after this memorandum but before the May 19 one or after the May 3 4 19. It's been 10 years. 5

I understand.

6 I don't remember specifically what date it 7 occurred. What I recall is that at some point in this general time frame, Governor Clinton indicated 8 that if an alternative could be prepared that 9 10 addressed the constitutional problem, did not create other problems, that he would be willing to have it 11 considered in a special session. 12 13

Okay. Did Governor Clinton make it clear to you that he wanted to do this?

15 It was not my responsibility to find a 16 solution to this issue. It was my responsibility to 17 collect some background information, which I did, 18 provided to him why the bill had been introduced. 19 what the problem was as far as Madison was concerned 20 as it turned out, and then if the proponents of the

21 legislation could come up with an acceptable

alternative legislation that we would consider it. 22

- 1 Q So the governor asked you to look into the 2 Madison issue?
 - A No.

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- 4 Q With respect to this?
- 5 A No, no.
- 6 Q That was an issue that you discovered when 7 you did your background search?

8 A That is what I determined the problem that 9 is noted in the May 19 memo, which I became aware of 10 after talking with Jim Guy Tucker, and it's that

11 information that I passed on to Governor Clinton in

12 the May 19, 1987 memo.

13 At the time the bill was vetoed, I had no 14 information that Madison Guaranty or Castle Water &

15 Sewer or any other Madison subsidiary was involved.16 It is my strong impression that Governor Clinton had

17 no information that this legislation pertained to

18 Castle Water & Sewer or Madison or any Madison

19 related subsidiary.

Q Once you informed Governor Clinton that this legislation did have an impact on Madison or its subsidiaries, did it change his view on the need for

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legislation?A He

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A He did not have a view on the need for legislation to begin with. We vetoed a bill because

4 it violated a specific provision of the state

5 constitution. It was common practice if you vetoed a

6 bill proposed by a member of the general assembly,

7 which we tried to avoid doing, as you might well

8 imagine, any more often than was necessary because

9 you had to work with those people again and again.

You didn't like to veto a member's bill unless there was a pretty strong reason to do so.

12 If it became necessary to veto a bill, then
13 it was common practice to express to that member of

14 the House of Representatives or the Senate that if

15 they could come up with an alternative way to address

16 whatever issue had motivated the introduction of the

17 bill, that we would take another look at it at some

18 point down the road, whether in the regular session or special session.

20 So it was common practice to express to 21 proponents of legislation, come up with another way

22 to deal with this issue and we'll take a look at it.

1 I mean it certainly was not unique to this particular 2 piece of legislation.

Okav. But Governor Clinton did not specifically direct you to consider alternatives until Mr. Randolph's intervention?

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Governor Clinton did not direct me at any time, based on my recollection, to consider alternatives. What he asked me to do through Betsey was to contact Tucker and get some additional information about why the bill had been brought forward in the first place.

12 But that was after Mr. Randolph's initial 13 intervention, not in response to the Senator or 14 legislator's queries about why his legislation had 15 been vetoed?

16 I probably talked with Representative 17 Wilson, who was the sponsor of the bill. That was 18 common practice, before you vetoed somebody's bill. I don't remember whether Representative Wilson had 19 20 indicated a desire to have another shot at it or not.

But I'm not talking about your liaison with a Representative or Senator. I'm talking about your 22

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1 contact with your ultimate boss, then Governor 2 Clinton.

Α It is my recollection that until either a Randolph conversation with me or the Randolph visit to the governor's office noted in the April 14 meeting, that we did not have any reason to think that there was any problem created by the veto of the bill, since we didn't know what issue was attempting to be addressed by the legislation.

10 And the ultimate problem that you saw after doing your review of the issue, and that you captured 11 12 in this memorandum to the governor, was not only the 13 concerns that Randolph and Jim Guy Tucker had with 14 this legislation and how it would affect their 15 business venture but the possibility of litigation that would impact Madison Guaranty? 16

That's a mischaracterization of what I 17 18 said.

> Q I apologize then.

I did not see a problem. What I did was report to the governor what had been described to me by Jim Guy Tucker as being a problem created by the veto of the bill.

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2 Why would litigation against Madison 3 Guaranty be a problem that the governor of Arkansas would need to know about? 4

It is not the problem that he needed to 5 know about. He had people who were affected by a 6 piece of legislation upset about his decision to veto 7 it. He asked me to find out what the background was, 8 why they were upset, what the legislation was 9 intended to address, which is what I did, and then 10 11

reported to him.

12 He did not direct me to fix their problem 13 or suggest that it was the governor's office's responsibility to fix that problem, merely to find 14 out what the issue was that had motivated the 15 introduction of the legislation and why Randolph and 16 perhaps others who were affected by it were concerned 17 about the veto, which is what I did and reported to 18 19 him.

2.0 Now, I follow you that far. I follow you, 21 I mean there's small businessmen that are interested 22 in as much deregulation of their industry as they can

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acquire, I assume. I don't understand why the 1 possibility of litigation with Madison Guaranty would 2 be a problem that you were asked to track down. 3

I was not asked to track --

5 Or why it would be a problem for Mr. Tucker, who you were asked to contact. 6

7 At the time I was asked to contact 8

Mr. Tucker, I did not know what the problem was that had been apparently created, at least in the minds of 9

some, by the veto of the legislation. To the best of 10

my knowledge, the governor did not have that 11

information or else it would not have been necessary 12

for Betsey Wright to have suggested that I call Jim 13

14 Guy Tucker and get that information.

15 Did Jim Guy Tucker express to you why a lawsuit against Madison Guaranty, a savings and loan 16 he was not employed by, would be a problem for him? 17 I just ask because this memorandum discusses 18 19 litigation with Madison Guaranty.

What I reported was what Mr. Tucker told me. I don't know that he said it was a problem for

him. He indicated that unless some type of 22

legislative solution was in place, that litigation was likely to occur. I reported that.

Q Did he expand on what the implications of that litigation would be?

A It is my recollection that the information I got from Mr. Tucker in that conversation, or it may have been two conversations, is recorded in that memo dated May 19.

Q And this memo of May 19 does not refresh your recollection as to any information that may have been passed on during that conversation, other

12 than --

A What that memo suggests to me is that the information, and all of the information that I received in my conversation or perhaps two conversations with Governor Tucker, is contained in that memorandum. I would not have had any reason to have selectively not included some information I gathered in that conversation in a report to the

19 gathered in that conversation in a repo20 governor.

20 governor.

Q Fair enough. How did you come to know that Wooten Epes did not want to move to the Madison

1 building?

A He probably called me and told me he didn't, or else Paul Mallard called me and told me Wooten wasn't being cooperative. One or the other of them called and told on the other one.

Q Did Epes or Mallard express why they did not want to move?

A It is my recollection that Wooten's stated objection was that the area was not particularly safe and that he was concerned about the safety of his employees, particularly his female employees, going from the building to their cars late in the evening, particularly in the winter when it would be dark. That, as I recall, was his primary stated objection. There may have been others, but that was a primary

objection on his part.

O Did you pass along that objection to any of

Q Did you pass along that objection to any of your superiors in the governor's office?

A There were discussions about that issue.
Wooten talked -- I know talked with Betsey about it.

Wooten talked -- I know talked with Betsey about it.
There were -- the dispute was fairly intense between

22 the two agencies. It went on for some period of

time, I don't recall how long, so there were several 1 2 discussions about it.

Were you ever involved in any discussions with Governor Clinton regarding --

I don't have any specific recollection of that. I may well have.

O Do you have any recollection of learning that this move would occur because it was a Madison-owned building?

No. 10 Α

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Were you involved in any contacts with 11 0 anyone at the governor's office that indicated the 12 need to make this move because the leasehold would be 13 a Madison-controlled lease? 14

I don't have any recollection of any conversation in which the governor or Betsey Wright 16 17 indicated that the SBS decision should stand because it was Madison property. 18

Do you have any specific recollection of 19 discussing any state regulated savings and loan with 20 Governor Clinton, other than Madison Guaranty? 21

As I had indicated earlier, there were two

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or three other state chartered S&Ls that were in the 1 same type of trouble that Madison was and that I made 2 him aware of their situation just as I made him aware 3 of Madison's situation, either orally or through --4 I just wanted to clarify that you had --5 6

-- a memorandum. But I can't name them right now and tell you specifically what I told him or whatever, but I know I did make him aware that there were problems with --

You're specifically aware of having told 10 11 him there's a problem with --

12 I can't tell you when I told him and what I told him. What I can tell you is that based on my 13 recollection at this point in time, that the way I 14 interacted with the securities department was largely 15 in oral conversations with Beverly Bassett-Schaffer, 16 and periodically, and that when she made me aware of 17 18 situations that I thought the governor should be made aware of, that I would bring those matters to his 19

attention either by telling him orally what I had 20 learned from Schaffer or by sending him a brief 21

22 memo.

The fact that you had S&Ls that were in trouble was certainly a matter that I felt he needed to be aware of so I'm sure that I made him aware of other similar situations.

1 2

Q Would it be safe to say that with respect to other -- let's leave Madison aside, other state regulated S&Ls, you only made the governor aware of situations where there was a failure of an S&L?

A I don't believe that's what I said. I think what I said or what I intended to say was that there were institutions which had serious financial problems and that a failure or a takeover seemed likely.

Q Did you tell Governor Clinton about the preferred stock plan that Madison was pursuing to recapitalize?

A I don't have any recollection that I did.

Q Did you ever discuss with then Governor Clinton any of the -- or the issue of Madison's need to recapitalize?

A Well, it was obvious that was Madison's problem.

Q Do you recall specific conversations?

A Well, to the extent we had conversations about Madison and its status, all of that was predicated on Madison's inability to meet required capitalization standards, so theoretically any conversation about Madison problems directly or indirectly dealt with that.

Q Did the governor ask you to keep him apprised of Madison's status?

A No more so than he asked me to keep him apprised of any number of a hundred or a thousand other issues that we dealt with in the five years I was there.

Q But did he specifically ask you to keep him apprised of Madison's status?

A I don't recall whether he ever said to me,
Bratton, keep me specifically apprised of Madison,
because that was my job, to keep him apprised of
problems that involved the agencies that I dealt
with. Having an S&L in danger of failing or being
taken over was certainly a problem, so, you know, he
may have said keep me apprised, he may not have. It

691 227 wouldn't have been necessary for him to do so. Or I 1 probably said I'll keep you posted. 2 The issue of Castle Water & Sewer was never 3 discussed with Governor Clinton subsequent to the 4 veto of the 1987 legislation until Mr. Randolph 5 6 contacted the governor's office? 7 I don't recall there being any -- I think the veto was the 6th or 7th of April or something 8 like that. I don't recall that there was any further 9 discussions of that piece of legislation until 10 Randolph raised concerns about it. There wouldn't 11 have been any reason for there to be further 12 discussions about it until somebody did raise 13 14 concerns about it. 15 MR. NAPPI: I have no further questions, gentlemen, and I appreciate your indulgence. I just 16 17 wanted to try --MR. BRENNER: And appreciate the witness's 18 19 indulgence as well. 20 MR. NAPPI: I appreciate your indulgence, 21 Mr. Bratton. 22 **EXAMINATION** 228 BY MR. PORTNOY: 1 2 I was all set to say good morning, Mr. Bratton, but I suspect that would be 3 inappropriate at this point. I have relatively few 4 questions. My name is Jim Portnoy, sir, I'm counsel 5 for the Minority staff. 6 7 You've been asked at some length about HB 8 1780. 9 Yes. Α 10 0 That bill was initiated in the legislature, was it not? 11 12 Yes. Α

12 A Yes.
13 Q Mr. Clinton had nothing to do with
14 initiating that legislation?
15 A That's correct.

Q Did anybody in the Administration, the Clinton Administration, to your knowledge, have anything to do with initiating that legislation?

18 anything to do with initiating that 119 A No.

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Q With respect to the bill that was introduced subsequently after 1780 was vetoed, that bill also originated in the legislature?

692 229 1 That's my recollection. Α 2 You didn't draft it? 0 3 Α I don't believe I did. 4 0 And to your knowledge, nobody else in the 5 Clinton Administration drafted it? If anybody had drafted it, I would have 6 7 been the one to do it. I have no recollection that I 8 prepared it. And I'm relatively positive that I did not do so. I would imagine it was prepared by 9 10 legislative counsel staff. Would it be fair to say, then, sir, that 11 this entire enterprise was of legislative origin and 12 legislative initiative? 13 14 I think that's an accurate assessment. 15 Turning back to HB 1780, your objections to the bill were not substantive, were they, sir? 16 The objections were based on my opinion 17 18 that it contravened a provision in the state 19 constitution that prohibited special local 20 legislation and therefore it was constitutionally 21 defective. 22 So the problem was that the bill chose the Q 230 1 wrong way to accomplish what it set out to do? 2 I think that's accurate. A 3 0 And you reviewed the bill and concluded 4 that it was constitutionally unfirm? 5 That's correct. A 6 Having so concluded, did you view yourself 7 as having any option except to recommend that the 8 governor veto it? 9 It was a fairly rare circumstance that I 10 recommended that the governor sign a bill that we thought was constitutionally defective. 11

thought was constitutionally defective.

Q And when you presented to Governor Clinton the notion of vetoing the bill because it was constitutionally defective, did he express any difficulty with your proposed course of action?

A Not that I recall.

12 13

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Q So this was all a fairly straightforward and simple procedure?

A I have no recollection that it was anything other than that up to the time it was vetoed.

O There was also a fair bit of discussion

Q There was also a fair bit of discussion earlier today about conversations with Jim Guy

```
231
    Tucker. Mr. Tucker is the current governor of
 1
 2
    Arkansas, is he not?
 3
        Α
            Yes, he is.
 4
             And before that he served in the United
         0
 5
     States Congress?
 6
        Α
             For one term, I believe.
 7
         0
             And before that he was the Attorney General
 8
    of the state of Arkansas?
 9
             For two terms.
10
             And you, in fact, worked for Mr. Tucker
11
    when he was Attorney General?
            For a little over two years.
12
13
             Would it be fair to describe him as a
14
    prominent public figure in Arkansas?
15
        Α
             Yes.
16
             And he was a prominent public figure at the
17
    time that the discussion regarding the veto of HB
     1780 occurred?
18
19
       A Yes.
20
             Would it be your normal practice when you
21
    were working for Governor Clinton to solicit or at
    least listen to the views of prominent public figures
22
                                                             232
 1
    who expressed opinions about potential legislation?
 2
             It was my responsibility to listen to
 3
    almost anybody who had any views on legislation that
 4
    they were interested in.
 5
             So there was nothing special about the fact
 6
    that Mr. Tucker was permitted to express his views to
 7
    you?
 8
             That's a lot of what I spent my time doing
 9
    in legislative sessions is -- and before and after in
10
    some cases is talking to people who were interested
11
    in legislation, or pro or con.
12
             The bill that followed the vetoed bill,
13
    what came to be known as Act 37 of 1987, was
14
    considered in a special session; correct?
15
        A
             That's correct.
16
             That special session was called, I believe
17
    you testified, primarily to deal with an income tax
    credit for institutions of higher learning?
18
19
             That's my recollection, yes.
         A
```

The session wasn't called for the specific

reason of dealing with the bill that became Act 37:

41-384 97 - 23

is that correct?

20 21

22

A Absolutely was not called for the specific purpose of dealing with that. There may have been some other pressing issues other than the tax issue. I don't recall at this point, and I haven't reviewed the call for that session in years so I don't recall whether there may have been other pressing issues, but this legislation in our discussion today clearly was not a reason for calling the session.

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9 Q In fact, a number of other legislative 10 matters were considered during that special session, 11 were there not?

12 I don't know how many, but I'm sure there 13 were several others that were considered. And it was 14 fairly common practice if it was necessary to have a session, to allow members to include matters that 15 16 were of particular interest to an individual member 17 or group of members and had some pressing need and was relatively noncontroversial, kind of if we're 18 19 going to be here anyway, why can't we deal with this 20 issue argument.

Q And you viewed this legislation as relatively noncontroversial?

234

A As it was redrafted, yes.

Q To your recollection, did anybody contact you or anyone in the governor's office to oppose the legislation that became Act 37?

A I don't have any recollection of anyone contacting the office to express opposition to its passage.

Q For example, the Public Service Commission
didn't oppose the revised regulation, or excuse me,
revised legislation?

A Not according to a conversation I had with then commission chairman Robert Johnston.

Q The implication has been raised, sir, that this legislation was enacted somehow as a favor or as a political payoff.

MR. NAPPI: I think I'm going to object. The record will speak for itself. Let's not draw any conclusions as to implications that can be drawn from the record.

BY MR. PORTNOY:

Q Let me state it for you simple, sir. Do you have any reason to believe that any action that

		235
1	you or anyone else in the Clinton Administration took	
2	with respect to this legislation was due to political	
3	favoritism?	
4	A No.	
5	MR. NAPPI: I think I have to object to the	
6	use of the term "political favoritism." Can you	
7	explain what you mean?	
8	MR. COLE: I think we can note your	
9	objection for the record and go on. He answered the	
10	question.	
11	BY MR. PORTNOY:	
12	Q The Majority asked you a number of	
13	questions regarding Madison Guaranty.	
14	A Yes.	
15	Q And various transactions that may or may	
16	not have had an impact on Madison Guaranty. Was	
17	there anything unique about the way that you or	
18	others in the Clinton Administration dealt with	
19	Madison Guaranty?	
20	A No.	
21	Q Your conversations with Ms. Schaffer were	
22	normal conversations that you would have with respect	
22	,	
	•	236
1	to any institution?	236
1 2	to any institution? A That's correct.	236
1 2 3	to any institution? A That's correct. Q And your conversations with Mr. Clinton	236
1 2 3 4	to any institution? A That's correct. Q And your conversations with Mr. Clinton were of the same nature?	236
1 2 3 4 5	to any institution? A That's correct. Q And your conversations with Mr. Clinton were of the same nature? A That's correct.	236
1 2 3 4 5 6	to any institution? A That's correct. Q And your conversations with Mr. Clinton were of the same nature? A That's correct. Q You had similar conversations with	236
1 2 3 4 5 6 7	to any institution? A That's correct. Q And your conversations with Mr. Clinton were of the same nature? A That's correct. Q You had similar conversations with Ms. Schaffer regarding other banks; is that correct?	236
1 2 3 4 5 6 7 8	to any institution? A That's correct. Q And your conversations with Mr. Clinton were of the same nature? A That's correct. Q You had similar conversations with Ms. Schaffer regarding other banks; is that correct? A Other S&Ls, other enforcement activities	236
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1
        A
             No.
2
             Mrs. Clinton?
        Q
3
        Α
             No.
4
        0
             Ms. Wright?
5
             No.
6
            MR. NAPPI: Could we clarify one thing for
7
    the record? Did Ms. Schaffer ever inform you of
8
    specific regulatory action that her entity was going
9
    to take with respect to Madison?
10
            THE WITNESS: It is my recollection that
11
    her general stance regarding Madison and two, perhaps
12
    three other similarly, somewhat similarly situated
13
    institutions, was that the state securities
14
    department's hands were basically tied in terms of
    enforcing any state sanctions because until the
15
    Federal Home Loan Bank Board and the Federal Savings
16
17
    and Loan Insurance Corporation were ready to move and
18
    pay off the depositors, that state action without the
19
    cooperation of the federal regulators could leave the
20
    depositors at risk. And so it was the state
21
    securities department was the tail wagged by the dog
22
    of the federal regulators, and that was pretty much
                                                            238
 1
    her stance regarding Madison and two or three other
 2
    institutions that were similarly situated.
 3
            BY MR. PORTNOY:
 4
             Whatever Ms. Schaffer's regulatory views
 5
    were, sir, they were her own, though; is that
 6
    correct? Nobody instructed her to take a particular
 7
    regulatory position with respect to Madison Guaranty?
             I did not, and I'm aware of no one else in
 8
 9
    the governor's office who did so.
            MR. NAPPI: You're not aware or --
10
11
            THE WITNESS: I am not aware that anyone
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forbear from taking any action. BY MR. PORTNOY:

else in the governor's office instructed her to

Q Finally, sir, you were asked about the leasing by the Arkansas housing authority of office space in a building owned by Madison Guaranty?

A Yes

12

13 14

15 16

17 18

19 Q To the extent that you were involved in the 20 decision to -- strike that.

The decision to lease that space was not made in the governor's office, was it, sir?

A The decision was made by Paul Mallard, I assume from the recommendation of leasing specialists, state building services.

Q But it was brought to the attention of the governor's office by either Mr. Mallard or Mr. Epes?

A Yes. I think in essence it's fair to say that Mr. Epes was appealing that decision.

Q Did anyone instruct you to look favorably upon the decision to lease that space because it was owned by Madison Guaranty?

A I certainly don't have any recollection of that occurring.

Q Are you aware of anyone taking any action at all with respect to the leasing of that space that was designed to benefit Madison Guaranty?

A No, I'm not.

MR. PORTNOY: That's all I have. Thank

18 you, sir.

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MR. COLE: Off the record, unless you guys have additional questions on this topic. Let's go off the record before we turn to the topic

22 Mr. O'Callaghan is interested in.

240

MR. NAPPI: I think I just have one more question that was borne out by the redirect.

EXAMINATION

BY MR. NAPPI:

Q Did Governor Clinton ask you -- and again I'm directing you to the public, the utility

deregulation legislation of 1987 -- did Governor Clinton ask you to contact anyone else other than

9 Mr. Tucker?

A Not that I recall.

Q And when you --

A I probably talked to Representative Wilson at some point.

Q But I mean a private citizen, because it is fair to say that when you contacted Jim Guy Tucker, you were contacting him in his role as a businessman and private citizen?

A It was my impression that he was doing some legal work that was related to the legislation. I

20 didn't specifically explore exactly who his client 21 was, but it was my impression that I was talking

was, but it was my impression that I was talking to him in his capacity as a lawyer for a client who --

```
Fair enough. You were not talking to him
1
2
    as a prominent Arkansas public figure who might have
3
    public policy views that he would want to express to
4
    vou?
5
             I was talking with him the same way I'd
6
    talk to any lawyer who wanted to call up and talk
    about a piece of legislation that was under
7
8
    consideration, or any nonlawyer, for that matter.
9
            MR. PORTNOY: Frequently a better source.
10
            MR. NAPPI: There was probably bipartisan
11
    unanimity on that.
12
            BY MR. NAPPI:
13
            Were you involved in any meetings or
14
    contacts regarding a lease between the Public Service
15
    Commission and Madison during your tenure with the
16
    governor's office?
17
             Between the Public Service Commission and
18
    Madison?
19
             Yes.
        0
20
        Α
             Not that I recall.
21
            MR. NAPPI: I don't have any further
22
    questions.
                                                           242
 1
            MR. PORTNOY: I would like the record to
 2
    reflect that we've completed the first portion of
 3
    this deposition and that the remaining portion will
    be conducted by Mr. O'Callaghan and Mr. Cole.
 4
 5
            MR. COLE: Off the record.
 6
            (Discussion off the record.)
 7
                    EXAMINATION
 8
            BY MR. O'CALLAGHAN:
9
        O Okay. We're back on the record. What I
10
    would like to show you for identification purposes
11
    are a bunch of documents that have been produced to
12
    the Committee that contain handwritten notations. I
13
    will identify documents by Bates stamp number and
    pages and ask you if you recognize the writing on the
14
15
    documents, if you've seen the documents before. And
    this is to help facilitate an anticipated phone
16
    deposition which will be a continuation of the
17
18
    deposition that took place today.
19
            The first document is a one-page document
    Bates stamped DKSN 017863. It appears to be a copy
20
21
    of a piece of stationery with the heading "John S.
22
     Selig." And the document reads "Sam, this draft is
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1	sufficient, there is no need for the other one I
2	spoke to you about," and it appears to be signed,
3	"John." Have you seen this document before?

 it?

A I don't recall specifically having seen it.

Q Do you recognize the handwriting on this document?

A I don't recognize the handwriting. I know who John Selig is.

Q Did you have any dealings with Mr. Selig at any time?

A I may have at some point. I don't recall specifically.

Q Did you have any dealings, to help refresh your recollection, with Mr. Selig in connection with drafting of legislation in connection with financing for a police radio network?

A I dealt with a member of Mr. Selig's firm, primarily, and I may have had some conversations with John Selig.

Q In looking at the document, do you recall having conversations with him about drafts of any documents or legislation?

A I don't specifically recall talking with John Selig. It is entirely possible. I do know I had a number of conversations with him and another member of his firm about that legislation.

Q Did you exchange documents with them?

A I don't know that we exchanged documents. I think they prepared some recommended legislation.

Q Was that in connection with the police radio network?

A Yes.

Q Okay, thanks. The next document is another one-page document Bates stamped DKSN 018228, and it is a routing slip from the state of Arkansas, office of the governor, dated 3-16, to Mike from Sam.

A That's my handwriting.

Q So you've seen this document before, I take

A I assume, it's my handwriting. I don't recall it, but it is my handwriting.

Q Your remark says "hope for discussion after session. Generally agree with your analysis." Do you know who this document was directed toward?

1 No Α

2 Q Was there anyone named Mike who you dealt with in connection with the police radio network 3 4 legislation?

11

12

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5 I think that Mike Gaines may have had some 6 involvement with that issue. Gaines for a while was a liaison with some of the public safety agencies. 7 8 It is possible that that is directed to Mike Gaines, 9 but I have no recollection at all what the issue or what analysis I agreed with was. 10

Q Did you deal with him in connection with the police radio network?

13 A I don't think Mike had much involvement 14 with that. He may have had some involvement 15 initially.

16 The next document, it's another one-page 17 document, it's a memorandum sheet Bates stamps DKSN

018191, and it appears to be routed to Governor 18

19 Clinton/Betsey Wright. Date is 5-1-85, from Mike

Gaines, subject: ASP communications is the title 20

21 written in handwritten notes. My first question is,

22 have you seen this document before?

246

I don't recall whether I've ever seen it before or not.

3 Do you know what ASP communications refers to? 4

5 That would be -- I assume Arkansas state 6 police communications contract.

7 Do you recognize the writing in the heading portion for the to, from and subject and date? 8

No, I don't recognize that handwriting.

Have you ever seen Mike Gaines's 0

11 handwriting before?

12 Α Sure.

13 Just to help refresh, does that appear to 0 14 be Mike Gaines's handwriting?

A I don't recall whether it's Mike's

16 handwriting or not.

17 For the record, to be clear, there appears 18 to be three different, that I can identify, styles of handwriting on the page. Towards the upper right 19

20 hand portion of this document, there's some

21 handwriting, some thicker pen that appears. Do you

recognize the handwriting that appears there? 22

1 A Yes, I do.

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Q Whose handwriting is that?

A Governor Clinton's.

Q Now, toward the bottom of the page underneath the Bates stamp, there's some more handwritten notes that appear there. Do you recognize the handwriting that appears there?

A Yes.

Q Whose handwriting is that?

A Betsey Wright.

Q The next document is a multipage document

12 Bates stamps DKSN 018262 through 18278. And the

first page of it is entitled a bill, it says an act

14 to enact authorize the opposition, installation and

15 authorization of a statewide radio communication.

16 Authorizing of construction, equipping and

17 authorization and building of other facilities for

18 the purpose of housing inmates in the custody of

19 department of correction. For the purpose of

20 construction, equipping and operation of facilities

21 for the expansion of prison, agriculture and industry

22 programs. Authorizing the issuance of the revenue

248

bonds for the financing thereof, providing for the payment and security of such bonds, including the pledging of various fees and further purposes.

Have you seen this document before? Take a

moment to review it.

(Witness reviewed the document.)

A I don't know that I have -- I can't say that I recall specifically having seen this. It appears to be very similar to legislation that was passed to fund the acquisition of the state police radio communication system. I'm not sure this is the precise draft that passed, but it certainly appears to be similar to legislation that was passed for that purpose.

Q I would like to direct your attention to the second page of the document. There are a couple of handwritten notations that appear there. The one in the top left corner is tough to read. It looks like it says "ADFA," and I can't make out the second word, but then there's, in the third paragraph, same handwriting appears, there's some scratched-out

22 words, "development finance authority," and above

249 1 that handwritten is "housing development agency." 2 And then further down from that sentence 3 there's another "authority" crossed out and above that handwritten notation which says "agency," and 4 5 then the next line has a similar cross-out, of 6 "development finance authority" which has 7 handwritten notes over that saving "housing development agency." Do you recognize that 8 9 handwriting? 10 Α No. I don't. After looking at this portion of this 11 document, does that refresh your recollection as to 12 13 what this document is? 14 No Α 15 0 Whether it's an earlier iteration of a 16 final bill that was proposed? 17 It may well be. The Arkansas housing 18 development agency existed prior to the 1985 session of the legislation -- session of the legislature. 19 Legislation was passed in '85 session that 20 21 restructured the housing agency, gave it barter 22 authority and changed its name to the Arkansas 250 1 Development Finance Authority. 2 So what it may look like here is that 3 someone was changing the language back to describe the agency that currently existed versus one that was 4 5 perhaps to be created at some later point in time, so it is possible that this was an early draft of the 6 7 bill that provided for a funding mechanism for the 8 state police radio system. 9 Okay, thank you. The next document again 10 is a one-page document Bates stamps DKSN 027258. And it appears to be a note on stationery for Beverly 11 Bassett, securities commissioner. And there's a note 12 13 that reads -- it's dated 5-28-86 and the note reads 14 "Sam, enclosed for your information is a note we 15 received today from Bob McHenry, one of the attorneys 16 for David Collins," and then it's signed "BB." Have 17 you seen this document before? 18 I don't specifically recall having seen 19 it. I probably did. Why do you say you probably did? 20 0 A Well, that appears to be Beverly Bassett's 21

handwriting, or certainly looks like it, and it's

22

addressed to Sam. I was the liaison in the
 governor's office with the securities department.

Q Okay. I would like to show you another document Bates stamped DKSN 027260, and again it's on similar stationery, Beverly Bassett, securities commissioner, dated it appears to be 5-20-86, again addressed to "Sam," says "FYI, by the way, the complaint does not allege what is stated in paragraph 1 of the Gazette article. They must be referring to paragraph 14 of the complaint. The SEC and NASD did

paragraph 14 of the complaint. The SEC and NASD did file complaints on this matter back in 1983. No

12 complaint was ever filed by the Arkansas Securities13 Department."

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Have you seen this document before?

I don't specifically recall having seen it.

but again, I probably did. It appears to be from Beverly Bassett and addressed to Sam, and I was the person in the governor's office with liaison

19 responsibilities with the securities department, but

I don't have specific recollection of it at thispoint.

Q Coming to the final document of the

252

handwritten notes. Again, it's a one-page document,
Bates stamp of DKSN 027472, and it appears to be a

3 stationery or envelope on Lassiter & Company

4 Investment Bankers stationery. There are handwritten

5 notes, both on what appears to have been photostatic

6 and also on the border of the paper that it was

7 photostatted on. And there's a number of different

8 handwritten notations on the document.
 9 And first I would like to direct

And first I would like to direct your attention to the top left corner, two asterisks and then some notations, ask you if you recognize that handwriting. Actually I'm sorry, before I have you answer that, have you seen this document before?

A I don't recall ever having seen it before.

Q Now if you could tell me if you recognize the handwriting in the upper left-hand corner.

A I'm not sure.

Q And how about the -- on the upper right-hand corner there's some handwritten notes with a 1 and 2 next to them. One appears to say "MS" and the other says "CG," and then "file, Rex." Do you recognize that handwriting?

253 1 It appears to be Betsey Wright's 2 handwriting. 3 Q And then this might be difficult to describe, but underneath the latter and company mast 4 5 head there is some additional notes, and ask you if 6 you recognize the handwriting that appears directly 7 under that. 8 Yes, I do. Α 9 Whose handwriting is that? 0 10 Α Then Governor Bill Clinton's. 11 Then there's one last bit of handwriting 12 which appears towards the lower left-hand corner. 13 which is in -- once again, in a thicker marker. Do 14 you recognize the handwriting that appears there? No. I don't. 15 MR. O'CALLAGHAN: Well, that concludes 16 17 the --18 MR. COLE: Is there anything else you want 19 to try to do on the record before we adjourn to resume by telephone at some later time? 20 21 MR. O'CALLAGHAN: I think at this point it 22 probably would be more prudent just to do it all at 254 the same time and keep some consistency in it and not 1 2 to break up the flow. So I guess on the record we'll 3 say that we will reschedule for another time. 4 MR. COLE: At a time that's mutually 5 agreeable between the witness and the staff here I 6 think, probably as soon as possible, perhaps next 7 week if that could be worked out, but why don't we 8 discuss that off the record, if not next week, as 9 soon thereafter as possible. 10 MR. O'CALLAGHAN: That's agreeable. 11 (Whereupon, at 5:47 p.m., the deposition 12 was adjourned, to reconvene at a later date.) 13

SAM I. BRATTON, JR.

14 15

I, DAVID L. HOFFMAN, the officer before whom the foregoing deposition was taken, do hereby certify that the witness whose testimony appears in the foregoing deposition was duly sworn; that the testimony of said witness was taken in shorthand and thereafter reduced to typewriting by me or under my direction; that said deposition is a true record of the testimony given by said witness; that I am neither counsel for, related to, nor employed by any of the parties to the action in which this deposition was taken; and, further, that I am not a relative or employee of any attorney or counsel employed by the parties hereto, nor financially or otherwise interested in the outcome of this action.

Notary Public in and for the District of Columbia

My Commission Expires JUNE 30, 2000

I, CARMEN BUNCH , the officer before whom the foregoing deposition was taken, do hereby certify that the witness whose testimony appears in the foregoing deposition was duly sworn; that the testimony of said witness was taken in shorthand and thereafter reduced to typewriting by me or under my direction; that said deposition is a true record of the testimony given by said witness; that I am neither counsel for, related to, nor employed by any of the parties to the action in which this deposition was taken; and, further, that I am not a relative or employee of any attorney or counsel employed by the parties hereto, nor financially or otherwise interested in the outcome of this action.

Notary Public in and for the District of Columbia

My Commission Expires MARCH 14, 1998

DEPOSITION OF RONALD M. CLARK IN RE: S. RES. 120

FRIDAY, JANUARY 5, 1996

U.S. Senate,
COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS,
SPECIAL COMMITTEE TO INVESTIGATE WHITEWATER
DEVELOPMENT CORPORATION AND RELATED MATTERS,
Washington, DC.

Deposition of RONALD M. CLARK, called for examination pursuant to notice of deposition, at 10:10 a.m. in Room 534 of the Dirksen Senate Office Building, before JOANNE LIVERANI, a Notary Public within and for the District of Columbia, when were present:

ROBERT J. GIUFFRA, JR., Esq.
Majority Chief Counsel
ALICE S. FISHER, Esq.
Majority Deputy Special Counsel
NEAL E. KRAVITZ, Esq.
Minority Principal Deputy Special Counsel
U.S. Senate
Committee on Banking, Housing, and Urban Affairs
534 Dirksen Building
Washington, DC 20510
On behalf of the Committee.

ALDEN L. ATKINS, Esq. Vinson & Elkins, L.L.P. The Willard Office Building 1455 Pennsylvania Avenue, NW Washington, DC 20004–1008 On behalf of the Deponent.

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Deposition Number	IDENTIFIED
Clark Exhibits 1 and 2	141, 824

1	PROCEEDINGS
2	MR. GIUFFRA: On the record.
3	Good morning, Mr. Clark. My name is Robert
4	Giuffra. I am the chief counsel of the Senate
5	Banking Committee. To my left is Alice Fisher, who
6	is deputy special counsel to the Majority of the
7	Special Committee on Whitewater; and to Alice's left
8	is Neal Kravitz, who is principal deputy special
9	counsel for the Minority.
10	This is a deposition that is being
11	conducted pursuant to Senate Resolution 120, a copy
12	of which I have here. I assume you and your counsel
13	have seen Senate Resolution 120.
14	THE WITNESS: I believe so, yes.
15	MR. GIUFFRA: This resolution establishes a
16	special committee administered by the Banking
17	Committee to conduct an investigation involving
18	Whitewater Development Corporation, Madison Guaranty
19	Savings & Loan Association, Capital Management
20	Services, Inc., the Arkansas Development Finance
21	Authority, and other related matters.
22	Section 1(b)(3) of the Senate Resolution
1	authorizes investigation and public hearings into
2	several issues that will be the focus of today's
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that you have chosen to have Mr. Alden Atkins represent you.

1 2

1 2

4 5

11-

If Mr. Atkins could state an appearance for the record

MR. ATKINS: I am Alden Atkins from Vinson & Elkins, representing Mr. Clark.

MR. GIUFFRA: The procedure with regard to depositions is as follows: Set forth in Section 5(b)(7) of the resolution, among other things, objections by witnesses to the form of the question will be noted for the record. If a witness objects to a question or refuses to answer on the basis of relevance or privilege, the special committee staff may proceed with the deposition, or may, at that time or any subsequent time, seek a ruling on the

objection from the Chairman.

If at any point today you don't understand the question, let me know. If anything is confusing I will rephrase it, or Mr. Kravitz can rephrase his questions. If you need a break at any point, again,

21 let us know and we will take a break.

The court reporter will prepare a record of

the questions and answers. This deposition will be treated as something called committee confidential until the commencement of the hearings, meaning it will not be disseminated to the public and it will be kept in a restricted room here, where access is limited.

Prior to the hearings you will receive a letter from the committee inviting you to come to the Senate to review your transcript, as we discussed prior to going on the record. You can look at your transcript at the Senate as soon as it becomes available to us.

Four days in advance of the hearings you will have an opportunity to actually get a copy of your transcript, either to be picked up here or we will send it to you.

Do you have any further questions?

THE WITNESS: No.

MR. GIUFFRA: Mr. Atkins.

MR. ATKINS: No.

MR. GIUFFRA: Please swear the witness.

22 Whereupon,

		7
1	RONALD M. CLARK	
2	was called as a witness and, having first been duly	
3	sworn, was examined and testified as follows:	
4	EXAMINATION	
5	BY MR. GIUFFRA:	
6	Q Mr. Clark, would you please state your name	
7	for the record?	
8	A Ronald M. Clark.	
9	Q That's C-l-a-r-k?	
0	A Yes.	
1		
2		
13	Q What is your present position?	
4	A I am an attorney with the Rose Law Firm in	
15	Little Rock, Arkansas.	
6	Q Are you the managing partner of the Rose	
17	Law Firm?	
8	A I am the chief operating officer.	
9	Q Is there a chief executive officer of the	
20	firm?	
21	A That would be me. We are a professional	
22	association and not a partnership, so I would be the	
1	chief executive officer.	8
1 2	MR. GIUFFRA: Could we take a break just	
3	for a second.	
4	THE WITNESS: Okay.	
5	(Discussion off the record.)	
6	(The reporter read the record as requested.)	
7	BY MR. GIUFFRA:	
8	Q Could you just briefly describe for the	
9	record the management structure of the Rose Law Firm?	
10	A Sure.	
11	MR. KRAVITZ: Do you mean at this time or	
12	back in the 1980s?	
13	MR. GIUFFRA: At this time.	
14	THE WITNESS: Sort of in lines of	
15	authority, ultimately, I guess, the board of	
16	directors which consists of all senior members of the	
17	firm; under that, there is the executive committee of	
18	which the chief operating officer is the chairman of	
19	that committee. And so it is the board of	
20	directors the executive committee is considered a	
21	subset of the board of directors, and then there is	
22	the chief operating officer, which is me	

9 1 0 How long have you been at the Rose Law 2 Firm? 3 Α I have been there since May of 1980. 4 When did you graduate from law school? Q 5 Α May of 1980. 6 O Where did you go to law school? 7 Α University of Arkansas. 8 O So your whole career has been at the Rose 9 Law Firm? 10 A Yes. 11 What is your area of specialty at the Rose 12 Law Firm? 13 I am in taxation, mostly corporate and 14 partnership transactions. 15 Could you briefly, if you can recall, state for the record who the managing partner of the Rose 16 17 Law Firm was, if there was one, starting in 1980? 18 A In 1980 through -- 1980 through approximately 1987, I want to say, it would have 19 20 been -- let me back up. 21 1980 through approximately 1985, it would 22 have been Joe Giroir. 10 1 Q Spell the last name. 2 G-i-r-o-i-r, C. Joseph Giroir. At some 3 point during that time, we changed titles and we didn't actually have a chairman/chief -- Joe at that 4 5 point was called chairman. We did not have the title 6 of chief operating officer. 7 At some point in the mid-'80s, we changed to chairman of the executive committee, which is sort 8 9 of the chief operating officer of the firm. And in the period from '85 to -- through '88, I couldn't 10 tell you exactly who -- Joe was part of the time. 11 12 Vince Foster would have been in that position part of 13 the time, and Web Hubbell would have been in that 14 position part of the time. And I can't really 15 tell ---16 0 This is sometime between 1985 and 1988? 17 Α Right. 18

You say the three of them at various points

Yes, I think it went Joe, Vince and then

Web. I think that's the chronology. 22 O '85 to '88?

were the chief operating officer?

19

20

A Sometime in '88 Bill Kennedy became what, at that point, was called the chief operating officer, and he was chief operating officer until he left in February of '93.

Q What were the titles between '85 and '88, not chief operating officer?

A I think they were called chairman of the executive committee.

Q Do you know why Mr. Giroir was replaced as chairman in '85?

A Well, again, it's somewhat complicated. I can't tell -- I could tell you and I would have to go back and look, but I cannot recall off the top of my head when exactly -- at some point he continued to be chairman while we had a separate chairman of the executive committee. But at that point it was sort of honorary, and my recollection is -- now, I became a partner in February of '85 so some of this would have been before I was a partner.

My recollection is there was just a normal chain, I mean Joe had been managing partner, to use that phrase, for a number of years. And we changed

sort of the management structure going to the executive committee type set up, and Joe became chairman while someone else became chairman of the executive committee, and then we just selected someone else.

So I am not sure there was any -- I don't recall any particular reason why there was -- why Joe was no longer chairman.

Q Was there any dissatisfaction on the part of some members of the firm with regard to how Mr. Giroir was managing the firm?

A At some point during that period of time, there was some dissatisfaction, because Joe had become involved in a lot of outside activities. He had invested in a number of banks and was spending a lot of time on personal business versus firm business.

But I can't really say there was -- I don't recall any big dissatisfaction with how he was actually managing the firm.

Q Do you have any understanding as to whether Mrs. Clinton had any role in the replacement of

```
13
 1
    Mr. Giroir as chairman of the firm?
2
             No.
        Α
3
        0
             Web Hubbell?
4
             Well, again -- as far as any role, I am not
    sure what you mean by "any role." I can remember
 5
    discussions during that time, about how the
6
7
    management of the firm was to be restructured to
 8
    where we would have an executive committee. And we
9
    had firm meetings, which I assume Mrs. Clinton and
10
    Web attended, and I would -- and voted but I don't
11
    know of any motivating -- they weren't pushing
12
    anybody as far as I recall. There could have been,
13
    but again. I was a new partner, so --
             Is Mr. Giroir still at the firm?
14
        0
15
        Α
             No
16
        0
             Do you know when he left the firm?
17
        A
             I believe he left in approximately March of
    1988.
18
19
        0
             Do you know why he left?
20
             He went into practice by himself -- well,
        Α
21
    actually took some people with him. He just split
22
    off from the firm.
                                                             14
             Did Mr. Giroir have any business dealings
 1
2
    either as a lawyer at the Rose Firm or otherwise with
    Madison Guaranty Savings & Loan?
3
4
             Not to my knowledge.
        A
5
             Now, are you aware that the Whitewater
    special committee served a subpoena on the Rose Law
 6
 7
    Firm?
 8
        Ä
             Yes.
9
        0
             And have you reviewed that subpoena?
10
        Α
11
        O
             And have you taken steps to see to it that
    the Rose Law Firm complied with that subpoena?
12
13
        Α
             I have.
14
        0
             And are you aware of -- strike that.
15
            What steps have either you or your counsel
    taken to comply with the Committee's subpoena?
16
             Well, most of the documents -- I don't know
17
18
    of any documents that were on the subpoena that have
19
    not at some point or other been produced to either
20
    the independent counsel or the RTC or the FDIC. So
    counsel has some pretty significant indexes of those
21
22
     documents, and so when we got that subpoena, I think
```

15 they went back and compared those indexes and tried 1 to pull the documents that would have been responsive 2 3 to those subpoenas. As far as you know, all responsive 4 documents in the care, custody and control of the 5 Rose Law Firm have been produced to the Committee? 6 7 MR. ATKINS: Let me interrupt, please. You 8 recall you and I had a conversation about the scope of our production, and what you and I agreed that we 9 would produce was narrower than what was actually set 10 forth in the subpoena. 11 12 MR. GIUFFRA: That is correct. But with 13 regard to the documents that you and I agreed, you are not under oath --14 15 BY MR. GIUFFRA: 16 O Mr. Clark, as far as you know, the documents that the Senate has asked for, both in the 17 18 subpoena and as amended by any side agreement between myself and Mr. Atkins, those documents have been 19 20 turned over? 21 Yes, unless there is anything else we need 22 to produce this morning. 16 MR. KRAVITZ: Can we have someone put on 1 2 the record what this side agreement was which -- I know I wasn't a party to it. I don't know if anyone 3 4 from the Democratic staff was. 5 MR. ATKINS: It was set forth in a letter I 6 sent to Mr. Giuffra, and I believe I sent a copy to 7 Lance Cole, I wish I could --8 MR. GIUFFRA: These are the Democratic 9 staff. 10 MR. ATKINS: The date was approximately 11 October 29, although I can't recall for sure. 12 MR. KRAVITZ: Can you summarize what it --13 how it limited the subpoena? 14 MR. ATKINS: Sure. My recollection is that 15 it limited the subpoena to documents relating to Madison Guaranty, to billing invoices from the Frost 16 17 litigation, to documents relating to allegations of shredding documents relating to Whitewater 18 19 Development Company. I believe; that's my 20 recollection offhand

21

22

BY MR. GIUFFRA:

Mr. Clark, prior to today's deposition, did

1 you speak with anyone other than your counsel about 2 the substance of your testimony here today? 3

No.

4

5

6

7

8 9

10

11 12

13

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15 16

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21

22

Did you speak to Mr. Kennedy about the fact 0 of your being deposed?

No -- I did -- no, I sent an E-mail out to the partners in the firm, with, I think, a copy to Bill, telling them I was being deposed but I did not have any personal conversations with him.

Mr. Clark, when did you first learn that the Resolution Trust Corporation was conducting any sort of investigation related to Madison Guaranty Savings & Loan?

It would have been in the spring of 1994, February or March. The FDIC had issued their report indicating that they had found no conflicts in our representation of the Frost -- in the Frost

17

18 litigation. And I think at that point Senator

19 D'Amato, on the floor of the Senate, expressed some 20

disappointment with the report and asked that there

21 be an investigation conducted. 22

So at that point I assumed there would be

18

an investigation, but that we had not received any formal notice of such.

At that point in time, did you, or did you instruct your counsel, to take any action with regard to the preservation of documents at the Rose Law Firm?

Α Well, I think -- I think long before that we had already started that process.

Well, when did you first take steps to preserve documents related to Rose's representation of Madison?

Probably -- it would have been, as far as preserving documents, it would have been -- we did some accumulation of documents in late 1993, and in January of 1994, we received the first subpoena.

Do you remember exactly the date? 0

I want to say January 13th, but I am not exactly sure. And that subpoena was subsequently withdrawn the very next day.

That subpoena was from whom?

That was from Mr. Mackay, I believe was his name, who was a lawyer for the government in Chicago.

```
19
            MR. ATKINS: It was a grand jury subpoena.
1
2
            BY MR GILIFFRA:
3
             Grand jury subpoena from the Justice
4
    Department?
5
             Right, before Mr. Fiske was appointed.
6
             That was withdrawn the next day and you got
    a subsequent subpoena. Do you remember when the date
7
    of that subpoena was?
8
9
             That would have been in -- the first week
10
    of February: is that right?
11
            MR. ATKINS: Yes.
            THE WITNESS: February 9th I want to say,
12
13
    maybe.
14
            BY MR. GIUFFRA:
15
            What steps do you recall taking in late
    1993 with regard to collecting or retaining documents
16
17
    related to Rose's representation of Madison?
             In November of 1993, we started getting
18
19
    various press calls, requesting answers to questions
20
    concerning the Madison matter. I had absolutely no
21
    knowledge whatsoever of the Madison, who had done the
    work, what type of work, and of course the calls were
22
                                                             20
 1
    coming to me.
2
            And so at that point, we took several
    steps, or I took several steps, trying to find out
3
    information, just to discover what exactly had been
4
 5
    done, who had done what, that sort of thing. So we
 6
    did a preliminary search, basically just in our main
 7
    building, of documents. I asked for a quick search
 8
    of our accounting records for fee statements, trying
    to find out who had done the work, and we were unable
9
10
    to locate those. And so I then asked for a summary
11
    of our fee credit reports.
12
             Let me ask a question about the fee
13
    statements.
14
        Α
             Okav.
15
             And let me preface the question by saying
    this is going to be the tricky part of this. We will
16
17
    have to try to deal with the earlier period and the
18
    present period.
19
            Let's focus on the period 1993, 1994.
20
             Okay.
21
             What was Rose's policy with regard to the
22
     retention of fee statements and billing materials?
```

A When a bill is created, it is created in triplicate; it is typed on a computer, printed out, and there's three copies of it. The original copy, top copy, obviously is sent to the client. One of the underlying copies is typically attached to the billing memorandum, which is the computer generated record of time, which is what the attorney marks up to create the bill

And that goes downstairs and sits in accounting. Now, in the accounts receivable file. And it will stay in that file until it is paid, at which point it moves over into the accounts paid file. We are on a fiscal year, January -- ending January 31, so any one year's bills are maintained down in a file in the accounting in alphabetical order by client.

At the end of that fiscal year, then they are moved somewhere, typically they are -- that set of files is removed to remote storage. And they will stay in remote storage until ultimately they are discarded or destroyed.

Generally speaking, we tried to keep our

accounting records semi up to date. We tried to get these things moved out of remote every three or four years. We are not particularly successful in that. Sometimes they would sit over there for five years, sometimes they would sit over there for two years.

Q Let's -- let me see if I can just sort of unpack what you said.

The bill is going to be sent to the client, and you create three copies of the same document?

A Right.

1 2

Q One copy obviously gets sent to the client, and the firm keeps two copies?

A Right.

Q One copy goes with the billing memo to the accounts receivable department?

A That's correct.

Q And it will stay in the accounts receivable department for about a year?

A Assuming it is paid within the fiscal year, it will stay in there until January 31.

Q So that if you sent out a bill on December 31, 1995, and it was paid on January 15, 1996, that

bill would be sent to your remote storage location by January 31, 1996, theoretically?

A Well, really not even theoretically. What happens, January 31 is the end of our fiscal year; we close our accounts. So sometime after the end of the fiscal year our accounting department would take the paid invoices and typically move them to remote. It may not occur until April that they actually get around to doing it, but at some point they would move those out.

O Where is this remote storage location?

A It's just in the warehouse in Little Rock, about five minutes, 10 minutes from the firm.

Q What is the name of the warehouse?

A I don't know if it has a name.

Q Is it run and operated by the Rose Law Firm?

A Yes. It is one of these strip type warehouses and we have -- we rent a small piece of it.

Q Would I be correct, this bill with the billing memo would stay at the remote storage for

approximately three years?

A For approximately three years, that's right.

Q And then it would be destroyed?

A Then we would attempt to destroy it, yes.

Q What happens to the third copy?

A The third copy, theoretically, the third copy could go anywhere the attorney wanted it. I would say, generally speaking, it is the practice of most of our attorneys that that third copy would be attached to the letter that you normally would send to the client saying please find enclosed your bill. That third copy would be attached to the letter and maintained in the client files.

Q Now, I want to focus my attention, at least initially, to this period 1993/94, and to extent there are any differences in the practices between '93 and '94 and the present, you can add that information --

A Okay.

Q -- and then we will go back to the earlier period.

26

Where are client files normally maintained, 1 2 were they maintained in '93, '94? 3 Active client files would have been maintained in our primary work building in Little 4 5 Rock. Now, it's always been our practice that when an individual attorney -- obviously we have limited 6 7 space in our main building. When an individual 8 attorney concludes a matter, it is within that 9 attorney's discretion to close those files and transfer them to remote storage, have them destroyed, 10 give them to the client, whatever is the proper way 11 12 to handle those files. And that's pretty much always 13 been the system. 14 Are the client files maintained with the 15 individual attorneys, or is there a special location 16 in the firm where you store files? 17 In all sections, other than our securities 18 section, individual attorneys maintain their own 19 files. The securities section, for some of their 20 files, have a common -- all attorneys in the 21 securities section go in a common area, but for everybody else, I maintain my files, someone else 22 1 maintains their files. 2 Was that the practice throughout the '80s, as far as you know? 3 4 Α Yes. 5 0 Would those files have been maintained by the billing partner with regard to a file, or by each 6 7 of the attorneys working on the matter? Each of the attorneys working on the matter 8 9 would maintain their own files. 10 MR. KRAVITZ: Bob, can I ask one clarifying 11 question? 12 MR. GIUFFRA: Sure. MR. KRAVITZ: You may have already 13 testified to this but so I am clear, that process of 14 15 billing you described a few minutes ago with three 16 different copies, what time period were you talking 17 about? THE WITNESS: That's always been the case 18 19 since I have been with the firm. 20 MR. GIUFFRA: Save me some questions,

Neal. I was going to get back to that. BY MR. GIUFFRA:

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Q What was the firm's practice in 1993, 1994 with regard on the maintenance of client files?

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1 2

A Pretty much the same. I mean, it was within the discretion of the individual attorney as to how to handle his or her files, so again on most active matters, obviously you would keep those files there in the building. Once a matter became inactive, some of our attorneys were very good about getting rid of the files and trying to keep things neat and clean, and some would keep inactive files in their office for years.

We made continuing efforts throughout this whole period of trying to get rid of as much paper as possible because our remote storage has been full for years.

Q This is in the period 1993, 1994?

A Right, even back in 1985 when there was some concerted effort. The memo produced this morning was evidence of some of the efforts we made of trying to get rid of as much remote storage as we could because it was crammed full of documents. But it was generally in the discretion of the individual

attorneys as to what they would do with his or her files.

Q This would have been the practice of the firm throughout the '80s and goings into the '90s?

A Yes, right.

Q I know Neal asked you some questions but throughout the '80s, your procedure with regard to bills stayed the same as it is now --

A Yes, as far as I know.

Q -- there has been no change?

What about time records, do individual attorneys input their time on -- is that done through a computer system?

A It is done -- at least through '85 to the present day, it was done in the computer system. How individual attorneys maintain their time varied. Some attorneys actually kept individual time sheets.

Some attorneys dictated their time.

Q And then it gets inputted by their secretaries?

A It gets inputted by the secretaries. Some secretaries input it directly into the system. I

would say during the '85, '86 time period, an 1 2 attorney would either keep a separate time sheet or dictate their time, or in some way have it 3 4 transcribed, where the secretaries would type in the 5 individual time sheets. And we had two steps. Back 6 then it was very inefficient.

Those time sheets then had to go down to accounting and they were actually keyed into the system. I don't believe any of our secretaries had direct access into our accounting software during the 1985-'86 period. Now they do, so they can put it directly into the system.

13 When the time sheet went down to 14 accounting, once it was keved in, that particular copy would have just been discarded. And as to 15 whether an attorney kept their own time sheets was 16 17 just a practice of the attorney; some did, some didn't. 18

19 0 Do you have any understanding as to how 20 Mrs. Clinton maintained her time records during the 21 period 1985-'86?

22 Α I don't.

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Have you attempted to find out how she maintained --

We have looked extensively for her time sheets and we have been able to find some of her time sheets, which indicates at least she or her secretary, one, did keep some copies of her time sheets.

Were these handwritten time sheets or are 0 they just dictated?

I think these were typed time sheets. In my practice, what I do is I will have the time sheet on my desk, I will handwrite the information, give that to my secretary, and then my secretary types it up. So I think most of what we've discovered were 14 15 typed time sheets and not handwritten time sheets. I am not sure.

17 Have you looked for billing -- strike 0 18 that.

Have you looked for time sheets of Mrs. Clinton for matters other than Madison?

Yes. Yes, we have.

0 And are those records still in existence?

Some are in existence. And again, when you say time records, I am assuming you mean time sheets. That's the only time record we have.

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Α Yes, some of them are in existence. We understand that Mr. Hubbell has taken some of them. but we still maintain some in our firm.

When you said -- let's not get too far ahead. You just said, I understand, Mr. Hubbell has taken some time sheets. Are these time records of Mrs. Clinton?

That's what we understand. Α

13 What is your understanding with regard to 14 when Mr. Hubbell took time records of Mrs. Clinton 15 from the Rose Law Firm?

I have no idea when he did it.

Have you attempted to find out when he might have removed time records of Mrs. Clinton from the Rose Law Firm?

Α No

21 Do you know whether it occurred prior to 22 the time when he left the Rose Law Firm, and --

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1 No, it would not have occurred then. I 2 think I would have known about it, had it been then. 3 I think -- he would have had to remove them before --4 I guess there is a possibility, it would be very 5 unlikely he would remove them after he left the firm. 6

So he probably -- your best --

Α I believe he would have taken them before January 20 of 1993.

When did he leave the firm? 0

His -- physically he left the firm sometime in January. His last official day would have been January 19th. I mean, we were very much trying to make sure all our financial arrangements were cut off with anybody that was joining the administration before the inauguration.

So it is your belief he removed certain time records of Mrs. Clinton prior to January 20, 1993?

Yes. Let me back up. I know he currently possesses them. I don't know whether he is the one that took them.

0 What is the basis for your belief that

1	Mr. Hubbell currently possesses time records of	
2	Mrs. Clinton while she was an attorney at the Rose	
3	Law Firm?	
4	A Mr. Nields told Mr. Atkins, N-i-e-l-d-s.	
5	Q What is your understanding of what	
6	Mr. Nields told Mr. Atkins about Mr. Hubbell having	
7	time records of Mrs. Clinton?	
8	MR. ATKINS: I can short-circuit this.	
9	There are some time records from '87, '88 that they	
10	have. I have reviewed those time records. There is	
11	nothing in there related to Madison Guaranty.	
12	MR. GIUFFRA: There is a tricky thing	
13	here. Is that your understanding, that those are the	
14	only time records that Mr. Hubbell now has in his	
15	possession?	
16	MR. ATKINS: It is my understanding I have	
17	reviewed all the time records he has.	
18	MR. KRAVITZ: Did you mean to say whether	
19	those were the only time of Mrs. Clinton's that	
20	Mr. Hubbell has in his possession?	
21	MR. GIUFFRA: Yes.	
22	MR. ATKINS: It is my understanding I have	
		34
1	reviewed all the time records of Mrs. Clinton that	
2	are in Mr. Hubbell's possession.	
3	MR. GIUFFRA: All dated '87 and '88?	
4	MR. ATKINS: Might have been a couple in	
5	'89.	
6	BY MR. GIUFFRA:	
7	Q Mr. Clark, you don't know whether	
8	Mr. Hubbell may have removed other time records that	
9	may not now be in his possession?	
10	A I do not know.	
11	Q So it is possible that Mr. Hubbell might	
12	have removed Mrs. Clinton's time records from the	
13	period of '85 to '86 related to Madison prior to	
14		
15	January 20, 1993?	
1/	January 20, 1993? MR. KRAVITZ: Objection to form.	
16	January 20, 1993? MR. KRAVITZ: Objection to form. (The reporter read the record as requested.)	
17	January 20, 1993? MR. KRAVITZ: Objection to form. (The reporter read the record as requested.) MR. KRAVITZ: I object to that question as	
17 18	January 20, 1993? MR. KRAVITZ: Objection to form. (The reporter read the record as requested.) MR. KRAVITZ: I object to that question as calling for speculation.	
17 18 19	January 20, 1993? MR. KRAVITZ: Objection to form. (The reporter read the record as requested.) MR. KRAVITZ: I object to that question as calling for speculation. THE WITNESS: It is possible, yes.	
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1 fact remove time records of Mrs. Clinton for the 2 period '85, '86?

A We have looked extensively as to what records we do have. No one in the firm, currently with the firm, has any knowledge, to my knowledge, that any of those records were removed.

We have subsequently learned that some files and time records were removed, but we have not made any attempt to discuss directly with Mr. Hubbell or his counsel as to when those were removed. We are not on the best of terms with Mr. Hubbell right now.

Q What is the full extent of your understanding with regard to what files and records Mr. Hubbell removed from the Rose Law Firm prior to his departure --

A Well, again --

Q -- in January 1993?

A I have no knowledge as to who may have removed what files. We just learned the situation with the time records within the last month or two months, I guess. I first learned that any files were removed in November of 1993, when we received the

files back from David Kendall. And that's really what I know.

Q The time records from the period '87, '88, what matters were those related to, do you know?

A I have not seen them so I don't know.

MR. GIUFFRA: You want to just --

MR. ATKINS: I mean, I can tell you they don't relate to Madison Guaranty or any of the subjects of your investigation. To go beyond that gets perilously close to privileged information.

MR. GIUFFRA: I tend to take a different view of that. I don't see what the actual billing records -- what matters were -- those relate to, I don't think -- that certainly wouldn't require any revealing of any privileged information.

MR. ATKINS: It could, Bob, and I don't want to argue with you. I guess the most complete answer I can give to you is that because I have reviewed them, looking for matters that might relate to subjects of this investigation, I have looked carefully for those subjects, and these other matters not relating to that, I can't recall what they were.

I can tell you there were a number of time entries 1 2 for Bar Association matters 3 BY MR. GIUFFRA:

4 The question is does it appear Mr. Hubbell 5 took all of Mrs. Clinton's time records or he left 6

some in the firm?

7 A Yes, I know -- I am pretty sure we have 8 some at the firm. We had to look extensively for 9 time records on any matters we did, for example for 10 the FDIC and RTC, because of the audit of those 11 agencies, and Mrs. Clinton did perform some work for 12 those agencies. And I am pretty sure that we had

13 some time sheets for some time during that period of 14 time.

15

Q Do you know how recently it was that you 16 reviewed these time sheets or had someone review the 17 time sheets for Mrs. Clinton?

18 MR. KRAVITZ: Which time sheets are you 19 referring to? MR. GIUFFRA: The ones that are still at

20 21 the firm.

22

MR. KRAVITZ: From 1987 and 1988, or from

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1 other times?

2 MS. FISHER: He didn't say when they were from. 3

4 THE WITNESS: At this point we are well 5 over a million pages of documents that we've produced to various agencies, so I have not looked at even a 6 7 fraction of those.

8 The FDIC and the RTC audits started in the 9 spring of 1994. One of the first things that they 10 were wanting were time records, and so we immediately started accumulating our time records and billing 11 records on every matter we had done for the RTC, the 12 FDIC. So someone in our firm would have accumulated 13

those, you know, no later than the summer of 1994. 14

15 And those have been maintained -- number 16 one, they have been produced all to the independent 17 counsel, to the FDIC IG, to the RTC IG. And we would 18 have maintained the originals under lock and key in

the firm. So I can't tell you I have ever actually 19 20 looked at any of the ones that relate to the

21 government. Anything related to Madison I probably

would have looked at. 22

Q Did the Rose Firm have a policy in place with regard to the handling of files by lawyers who were leaving the firm? And this would be in January 1993.

A Yes. I mean, of course, it depended on who the lawyer was -- let me back up.

It would depend on what the lawyer was doing when they were leaving. Generally speaking, either the managing partner, chief operating officer or primarily the person that was head of that section, the practice section that the attorney was working in, would get with that attorney, go down the list of files; obviously any personal files that attorney had, they could take, or any outside activities.

For client files, any that were to be taken could not be taken until we had a form letter. We normally would agree to the form of the letter that would be sent to the client. These were attorneys that were obviously leaving to practice somewhere else.

That form letter would not be necessary for

attorneys who were leaving to join the administration or something like that because obviously they would not be practicing law somewhere else.

Q Were any meetings held with Mr. Hubbell, prior to his departure from the Rose Law Firm, with regard to what files he would or wouldn't be taking with him?

A There were -- I am sure there were several meetings with attorneys in his section, as far as what active files that he needed taken care of would be transferred, the work being transferred to attorneys. I don't think there would have been any discussions with him as far as what files -- what client files he would have taken with him, because it would have been anticipated he would not have taken any client files with him.

Q Do you know whether there were any discussions with Mrs. Clinton when she left the firm regarding her client files?

A Same type of discussion. I know there were discussions as to who would take over active files she had, but otherwise, I wouldn't think there would

1 have been any discussions.

2 As far as you know, did Mrs. Clinton remove 3 any client files prior to her departure from the 4

firm --

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Α No.

6 -- in January '93? 0

7 Not to my knowledge. Α

Do you know whether Mr. Foster removed any 8 9 client files prior to his departure from the firm in

10 January of 1993?

> Again, the only knowledge, I do know, in the transmittal letter sent to Jerry Jones from David

Kendall returning to us what were obviously our 13

14 client files, Mr. Kendall's letter refers these were

15 from Vincent Foster's files. Whether that means

16 Vince took them or Web took them. I don't know.

17 Let me show you a document which bears 18 Bates number RS 3881. This is a letter from David 19

Kendall dated November 22, 1993 to Mr. Jerry Jones. 20 Could you state for the record what you

21 know about the circumstances surrounding the return

22 of these documents to the Rose Law Firm?

42

1 Sure. The day before -- well, I guess the 2 day of this letter -- the date is November 22 -- it 3 was early evening, Jerry came down to my office and said he had gotten -- received a call from David 4 5 Kendall, that he apparently had some files that

6 belonged to -- he thought belonged to us, and he was

7 going to return them to us. 8

I can recall specifically being somewhat upset about this in two respects. One, it was the first I ever heard that files had been taken from our firm; and two, I was upset that they were being returned to us, frankly, because, it was obvious at this point this was going to become a hot topic, and I knew we were going to be put in the chain of

14 15 custody.

16 So the next day I received the files with 17 this letter attached. At that point I think Jerry 18 and I were the only ones that knew we were going to 19 get these files back. 20

Who is Jerry Jones? 0

21 Jerry Jones is just a partner in the firm 22 that I would -- this is speculation but I would

		43
1	speculate the reason David Kendall called Jerry was	,,,
2	because Jerry and I were the two people during this	
3	time period who were having to deal with Web	
4	concerning his theft.	
5	Jerry was on better terms with Web than I	
6	was. I was sort of being the heavy in this	
7	counter in this confrontation, and so my guess is	
8	Web gave Kendall Jerry's name.	
9	But in any event, I received them the next	
10	day via Jerry received them the next day via	
11	Federal Express or something. And because I knew	
12	they would be extensive, these particular files, I	
13	kept them in my own office under lock and key, unlike	
14	most of our other files, which were kept in a	
15	separate room.	
16	Q Did the files were they originals when	
17	you received them?	
18	A Yes.	
19	Q Not copies?	
20	A They were not copies.	
21	Q Do you know whether Mr. Kendall maintained	
21 22	Q Do you know whether Mr. Kendall maintained copies of those files?	
22	copies of those files?	44
22 1	copies of those files? A I understand from his testimony before the	44
22 1 2	A I understand from his testimony before the Senate that he did maintain copies. They were	44
1 2 3	A I understand from his testimony before the Senate that he did maintain copies. They were ultimately produced to the independent counsel in the	44
1 2 3 4	A I understand from his testimony before the Senate that he did maintain copies. They were ultimately produced to the independent counsel in the spring of 1994.	44
1 2 3 4 5	A I understand from his testimony before the Senate that he did maintain copies. They were ultimately produced to the independent counsel in the spring of 1994. Q Have you ever spoken to Mr. Kendall about	44
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1 2 3 4 5 6 7 8 9 10 11 12 13	A I understand from his testimony before the Senate that he did maintain copies. They were ultimately produced to the independent counsel in the spring of 1994. Q Have you ever spoken to Mr. Kendall about these documents? A I have not. Q Has anyone who is an agent of the Rose Law Firm spoken to anyone about these files? MR. KRAVITZ: You mean other than Mr. Jones? BY MR. GIUFFRA: Q Mr. Jones or anyone else. A Other than someone at Vinson & Elkins, I	44
1 2 3 4 5 6 7 8 9 10 11 12 13 14	A I understand from his testimony before the Senate that he did maintain copies. They were ultimately produced to the independent counsel in the spring of 1994. Q Have you ever spoken to Mr. Kendall about these documents? A I have not. Q Has anyone who is an agent of the Rose Law Firm spoken to anyone about these files? MR. KRAVITZ: You mean other than Mr. Jones? BY MR. GIUFFRA: Q Mr. Jones or anyone else. A Other than someone at Vinson & Elkins, I don't know of anybody.	44
1 2 3 4 5 6 7 8 9 10 11 12 13 14 15	A I understand from his testimony before the Senate that he did maintain copies. They were ultimately produced to the independent counsel in the spring of 1994. Q Have you ever spoken to Mr. Kendall about these documents? A I have not. Q Has anyone who is an agent of the Rose Law Firm spoken to anyone about these files? MR. KRAVITZ: You mean other than Mr. Jones? BY MR. GIUFFRA: Q Mr. Jones or anyone else. A Other than someone at Vinson & Elkins, I don't know of anybody.	44
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any information or knowledge that they have spoken to them about them, but I know they were having some

I don't know -- I don't know that I have

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1
     conversations.
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              As far as you know, were these documents --
 3
     strike that.
 4
             This letter says "I am enclosing herewith
 5
     three file folders," and it describes the file
     folders, "which were among the late Vincent Foster's
 6
 7
     files."
 8
             Do you have any knowledge as to whether
     these were files -- these were among Mr. Foster's
 9
10
     files at the White House?
11
              I do not.
12
         0
              Have you attempted to find out the answer
13
    to that question?
14
         Α
             No.
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         0
              Do you know whether these were maintained
    by Mr. Foster here, in his home here in Washington?
16
17
              I don't know.
18
             Do you know if these were maintained by
        0
19
    Mr. Hubbell?
20
        Α
             I do not.
21
         O
             Do you know how the files got to
22
    Mr. Kendall?
                                                             46
 1
        Α
             No.
 2
             Do you have any knowledge as to why
 3
    Mr. Kendall would have made the reference to these
 4
    documents being "among the late Vincent Foster's
 5
    files"?
 6
        Α
             I do not.
 7
        0
             Have you attempted to find out why he would
 8
    have said that?
9
        Α
             No
10
             Were these matters that, as far as you
11
    know, Mr. Foster worked on?
12
             They were not matters Mr. Foster worked
13
    on.
14
             Was it your belief that Mr. Foster had
15
    removed these files prior to leaving the firm?
16
             It is obvious to me that someone removed
17
    these files. I don't know whether Vince did or not.
18
    And I have heard the stories in the press that there
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    were some documents in Web's basement that eventually
20
    became David Kendall's. Whether these were among
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them, I don't know. I really don't know who removed

21 22

them. Someone did.

		47
1	Q Do you have any knowledge as to whether	• /
2	strike that.	
3	Do you have any understanding as to whether	
4	Mrs. Clinton had any involvement with regard to the	
5	removal of any Rose Firm's files, client files	
6	A I have no knowledge.	
7	Q prior to January 20, 1993?	
8	A I have no knowledge that she one way or	
9	the other that she participated in the removal of	
10	files.	
11	Q You can't say whether she did or she	
12	didn't?	
13	A No.	
14	Q During what period was Carolyn Huber the	
15	firm administrator of the Rose Firm?	
16	A She would have been firm administrator from	
17	the early '80s, starting in 1980 or 1982, through the	
18	time of her departure which would have been in	
19	December of '92 or January of '93.	
20	Q Do you know the circumstances under which	
21	Ms. Huber was hired as firm administrator by the Rose	
22	Firm?	
		48
1	A She had Carolyn had been Mrs. Clinton's	
2	secretary until the '70s this is before I was with	
3	the firm and in 1978, I believe it was '78, when	
4	the governor when then Governor Clinton was first	
5		
6	elected, Carolyn had left the firm to be	
	administrator something of the governor's mansion.	
7	administrator something of the governor's mansion. And then I guess it was in 1980 when	
8	administrator something of the governor's mansion. And then I guess it was in 1980 when Clinton was defeated, then Carolyn came back to the	
8 9	administrator something of the governor's mansion. And then I guess it was in 1980 when Clinton was defeated, then Carolyn came back to the firm, and at that point I believe became	
8 9 10	administrator something of the governor's mansion. And then I guess it was in 1980 when Clinton was defeated, then Carolyn came back to the firm, and at that point I believe became administrator.	
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been unemployed for a year or so -- let me back up. She worked for the RTC before she came to

1 the firm.

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When did she come to the firm? 0

She came to the firm in -- let's see, it would have been either late '92 or early '93. I

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think it was sometime in '92. We knew Carolyn would

6 be leaving of course, assuming the election -- so I 7

think we actually interviewed Kathy and she came with 8 us sometime in late 1992.

Since January of 1993, do you have any understanding as to whether Ms. Huber has returned to the Rose Law Firm on any occasions?

It is my understanding she has, ves.

0 What understanding do you have as to the nature of Ms. Huber's visits to the Rose Law Firm?

I don't know of any specific visits she had. I heard of occasions she has been in the office. I always assumed it was just visiting people. She has a lot of good friends there.

You have no understanding as to whether she ever reviewed any documents at the Rose Law Firm?

21 I have no reason to think she has done 22 that.

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Since January of 1993, has Mrs. Clinton 1 2 been back to the Rose Law Firm offices?

Since January of 1993, I do not believe she has been back to the offices since then.

5 Do you have any understanding as to whether 6 Mr. Foster was back at the firm between January 20, 7 1993 and July 20, 1993?

I believe that the weekend that he was in Arkansas to give the commencement address that he dropped by the firm and visited with a few people sometime during that weekend.

12 Do you have any understanding as to whether 13 Mr. Hubbell returned to the firm after January 20, 14 1993?

Α I know Web was there at least once, which was in June of 1993

17 . 0 What were the circumstances under which he 18 was visiting the firm?

19 Α We were dealing with Web on his theft 20 issue.

21 That was June 1993? 0. 22

Α That was June of 1993, yes. Q Do you remember the exact date?

A No, I could find out for you but I don't recall.

He was in town --

MR. ATKINS: Let me interrupt a moment.

When you say the theft issue, you mean what became a theft issue.

THE WITNESS: Yes, actually it was not considered a theft issue at that time. Jerry and I had visited with Web in May of 1993 in Washington about various matters, including answering some of these billing questions that we had which at that point were really billing questions.

You know, he was a busy man obviously, and by June, he had not given us any of our answers. We knew that he was coming into town to speak at the Arkansas Bar Association annual meeting which is in Hot Springs, about an hour outside of Little Rock.

And I asked Jerry to ask Web to drop by the firm either on his way over there or on his way back so I could talk to him about this issue. So he met in my office with me and Jerry Jones and another

partner, and we discussed these issues. And to my knowledge, that's the only time he has been back to the firm.

Q Do you know when Mrs. Clinton first learned an issue had arisen with regard to Mr. Hubbell's billing of clients of the Rose Law Firm?

A I don't. We have -- we intentionally went out of our way not to discuss that with anybody in the administration, so I don't know when she first learned.

Q Have you conducted an audit with regard to billing -- strike that.

There came a time when you conducted an audit of Mr. Hubbell's billings; correct?

A .Correct.

Q Did you conduct an audit of any other former Rose Partners, i.e., Mrs. Clinton, Mr. Kennedy, or Mr. Foster?

A No. The way the Hubbell matter got started was in -- I have already described to you how, in the active files, we pretty much relied on the responsibility of the attorneys to deal with people

in their section to transfer the active files. As
 you might guess, our accounting records, there's
 literally hundreds of inactive matters or small
 matters that each attorney handles.

Sometime after January 31 of 1993, the accounting department just dumped this big stack of green bar computer printouts for Vince Foster, Web Hubbell, Bill Kennedy and Hillary Clinton on my desk, so that at some time I would go through those to try to determine who would become a billing partner for various matters, who would be responsible for files, that sort of thing.

I guess in late April, early May of 1993, I started going through those, so I did go through Hillary's green bars at that time and went through Bill Kennedy's. I went through Vince Foster's areas in order to do this. No issues were raised, no questions ever appeared.

During that process of going through Web's is when I first discovered some questions on the billing matters that I couldn't get answers to.

O When was that?

A That would have been in May of 1993.

Q And what were the questions that arose with regard to Mr. Hubbell's bills?

A Well, in going through and trying to -literally what I was trying do is we had these
hundreds or thousands of accounts that somebody
needed to start taking care of, and to be receiving
their accounting reports and that sort of thing. So
I was really going through these green bars, and when
it said client X matter Y, I was putting out to the
side, all right, attorney John Doe would start

handling this matter. Obviously I didn't know 90 percent of these matters. I never worked on them.

And so one way that I was trying to

determine who to assign these matters to was to go down and examine billing records to see who else had worked on these matters. And so I was going down, looking at billing records for all these people to see, Rick Donovan or Ron Clark had worked on this matter.

And in going down and looking at the billing matters for Mr. Hubbell, I started seeing

these -- some client advance matters anddisbursements for travel expense, \$2000, deposition

expense \$2000, which had not been billed to clients,

which had been written off. And it raised the

question why is the firm paying for those. Why

aren't those being billed through to clients, and

that's what started the whole thing. And I didn't see those issues with Mrs. Clinton's or Mr. Foster's

or Kennedy's bills.

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Q When you first raised the issue with Mr. Hubbell was that by telephone in May of 1993?

A No, it was in person. At about that same time we were having significant difficulties with some of the aftermath of the POM case. We were in the process -- I can't remember if we had been sued or being threatened to be sued by one of the consultants in that case.

Q That is Park-O-Meter?

A That's right.

Q That was the firm that was run by

Mr. Hubbell's father-in-law, Seth Ward?

A Actually it was run by his brother-in-law.

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Q Brother-in-law?

A Seth Ward, Jr., affectionately known as

Skeeter. And so we were -- like I say, I can place

it -- I think we were in the process of about to be

sued, we thought, by one of the consultants, the antitrust consultants in that case. And so Jerry and

antitrust consultants in that case. And so Jerry and I arranged to meet Web in Washington to discuss

primarily that matter, about -- Web had been

primarily that matter, about -- web had been

9 promising us for some time that he was going to take 10 care of that matter, his wife's family was going to

11 pay those bills and pay us the significant amount of

money that they owed us. And so that was our big

13 concern at that point.

14 In addition to

In addition to that --

Q This was a case that he had taken as a contingency?

A Yes.

Q And had been unsuccessful?

A Yes

Q And he had agreed to pay -- at least make good some of the billings and disbursement of the

firm?

57 Just the disbursements is all we were 1 2 talking about. 3 He would make good? Q 4 Α He personally. 5 The family? 0 6 The company. He told us the client was A 7 going to arrange for those payments. 8 About how much money was that? 9 At that point in time, it was about Α 10 \$400,000 in disbursement that we were due. At the time Web left the firm, it was about -- known to us, 11 12 about 150. And within two weeks of his departure, we 13 got bills in from third parties saying we owed them 14 another \$220,000 that we didn't know anything about, 15 was not on our books. 16 What is your estimate of the amount of 17 money that Mr. Hubbell stole from the firm with 18 regard to his disbursement scheme? 19 MR. KRAVITZ: Can we hang on for one 20 second. 21 Bob, I haven't interrupted this line of 22 questioning, as long as it was preliminary it seemed 58 1 to be related to general billing practices which I 2 think were relevant. But what I guess I want to ask you is to articulate for me, and maybe for the 3 4 record, why details about Mr. Hubbell's theft from 5 the Rose Law Firm is relevant here. 6 MR. GIUFFRA: Sure thing. 7 Well. I think the first reason is that 8 Mr. Hubbell is a critical witness with regard to this 9 whole matter, and his credibility is certainly at issue. And the Committee certainly is entitled to a 10 basic, rudimentary understanding of his theft of 11

13 is now a felon. 14 And since he has testified and raised his 15 hand, and swore to tell the truth, we have 16 certainly -- certainly matters that are relevant, 17 number one.

money from the Rose Law Firm and the reasons why he

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18 Number two, some of the theft that he 19 engaged in had to do with the representation by the 20 Rose Law Firm of the RTC. And that's something 21 that's specified in the resolution. So, with that I 22 am certainly going to go into it.

What was the last question I had?

BY MR. GIUFFRA:

O What was the amount of the scheme?

A Because of our -- again, as I testified, we only maintained accounting records for a limited period of time, we only had good records going back through 1989. And I know, just from my discussion with independent counsel, they were unable to find records from the credit card companies going back much before that.

So for the period of roughly '89 through his departure, he misappropriated, according to his plea, approximately \$485,000.

Q Do you have a belief it may be more than that?

A Well, he hit the ground running in 1989, so I've got to believe that it probably started before then.

Q Do you have any basis for that understanding, or belief, excuse me.

A We had -- we were able to occasionally find a bill that had a questionable matter on it in 1988,

but again, as far as proving theft, sort of the way this worked out you really had to have the credit card receipts and we were not able to get them at all. And the independent counsel, I don't think, was able to get it.

Q Were these a firm credit card?

A No, personal credit card.

Q When you first approached Mr. Hubbell with regard to these irregularities regarding disbursements, what was his response to you?

A Well, again, in May of '93, it was Jerry and I. I've got an accounting background. I am sort of the suspicious sort and Jerry is not.

Q Is Jerry a litigator?

A Yes, he is a litigator. Neither one of us thought this was a question of theft. I thought it was a question of sloppy bookkeeping. We asked him about them. I had a little summary of the ones, I think the dollar amount we were looking at then was about 20- to \$25,000 of disbursements that didn't look right.

Web said oh, yes, no problem, he will get

1 the information for us, it could be explained. And we said great, and left. 2

Then you subsequently -- he subsequently came to see you in June of 1993?

By June of 1993 we had not received any response, and again even then, we -- I can't say I was that suspicious but I thought I would take the opportunity while he was in town to sort of press him to get it done. So I pressed him and said -- and we

basically got the same response there -- that, you 10

know, I apologize, I am busy, this could be 11

explained. I will get this information to you. And 12 once again, we said okay, Web, but we really would 13

appreciate if you would do that. 14

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15 I didn't do anything else on it, I intended 16 to follow up, you know, sometime in July, if I had not heard from him. Obviously in July Vince killed 17 18 himself. That put us all back on our heels for the 19 longest time, and I intentionally took no action on 20 the matter out of respect for everybody, primarily.

21 By sometime in September I still had not received anything. So I wrote Web a letter saying, 22

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you know, enough is enough, you know, we need it right now.

0 And your belief was it was still a \$25,000 4 problem?

At this point we thought it was roughly that same amount.

By October, we still had not received a response. So in the November firm meeting I reported to the firm the matter -- they already were generally aware of the questions.

I said at this point, the delay had gotten to such extent that I was concerned that the problem may -- had gotten larger than that. So I in fact requested permission to go ahead and start a broader investigation.

0 From the firm?

From the firm. And with that, I did undertake a review.

And when was that exactly, the broader investigation?

That was in November of 1993. Α

0 Would that have been the first time that this issue would have been widely aired within the firm?

A No, no. I mean, the firm would have known about the general question of -- questions concerning Web's billing maybe possibly in May of 1993, certainly by June of 1993.

Q And that would have been information that would have been shared with all the partners in the firm?

A Anybody who would have attended the firm meetings, which is not necessarily everyone but we did discuss this at the firm meetings. We have monthly firm meetings.

Q So then in November you decided you were going to have an investigation and the partners all know that?

A That's right.

Q And was the investigation still limited to this \$25,000 issue?

A No. At that point I went back and looked at all client advance checks that Web had written in 1992 and 1991. At that point we only went back two

1 years.2

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And again, even at that point we had no -- once -- what we produced was a significant number of client advance checks. Now, Web was a litigator, he traveled a lot, so it did not surprise me to see a huge volume of client advance checks.

But unlike the vast majority of the people, he paid his credit card bills directly. I mean, most of us, what we would do, if I charged a hotel bill to my credit card, I would bring the hotel receipt back and write myself a check. And then when my bill came in a month later, I would write my — what Web did, wait a month until his credit card bill came in and he was writing checks directly to his credit card company.

Q On the firm checking account?

A It is the client advance account.

Q So basically, to make it real simple, normally if a lawyer stays in a hotel, they submit an expense form to the firm, and -- for the amount of the hotel bill. And then the firm will write a check to the lawyer and then the lawyer will have that

money and pay off their credit card company with a personal check?

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A That happened in probably 90 percent of the checks.

Q What Hubbell did was, he would get his credit card bill and then have this client advance account, write a check for the amount of what he thought he was entitled to for his expenses directly to the credit card company?

A Right. Where the system broke down, where -- why we didn't discover this earlier was it was the policy of the firm in those days that you had to maintain receipts for those expenses. But you could maintain them either by sending them down to accounting, or you could maintain them by keeping them in your client files. And a lot of attorneys did keep them in their client files because if a client had a question about an expense that would be the easiest thing to do.

And so, Web's scheme, to use the word, was he was in effect implying that he was maintaining them in the client files so there wasn't anything

necessarily suspicious about him writing checks directly to his credit card companies. Other people did that because some people have -- some partners have cash flow issues; they don't want to get a client advance check and a month later have a \$3000 bill show up on credit cards, so some of them did wait until the credit card bill came in. Most of them would take the credit card bill, circle the expenses, send that down to accounting, get the check. Web said he was keeping those in his client

files. Obviously when we did the investigation,
found this huge number of checks written to his
credit card company, and then went to the client
files for the receipts, that's when, in basically
December, at that point, of 1993, we didn't discover
the receipts.

Q Did the Rose Law Firm have procedures
whereby -- strike that.

In this period, '89 to '92, did you have

In this period, '89 to '92, did you have procedures whereby only certain partners could sign checks, firm checks?

			67
1	A	Not during that period. Well, for client	
2	advance	checks, no. Any partner could sign a client	
3	advance	check. If it was a client advance check in	
4	excess o	f a thousand dollars, two partners had to	
5	sign it.		
6	Q	So were when Hubbell had	
7	A	He signed most of these checks himself.	
8	Q	They were all under a thousand?	
9	A	No, some of them were over a thousand.	
10	Q	Were any of them signed by two partners	
11	includin	g Hubbell?	
12	A	Yes.	
13	Q	Do you know approximately how many?	
14	A	I don't know.	
15	Q	Did Mrs. Clinton sign any of these checks?	
16	Α	Yes.	
17	Q	Did Mr. Foster sign any of the checks?	
18	Α	I don't believe so.	
19	Q	Did Mr. Kennedy sign any of the checks?	
20	Α	I don't believe so.	
21	Q	Do you recall approximately how many checks	
22	Mrs. Cli	nton might have signed along with	
			68
			00
1	Mr. Hub		00
2	Α	I don't recall any checks that were signed	00
2 3	A by nonli	I don't recall any checks that were signed tigators which would typically what	
2 3 4	A by nonli happens	I don't recall any checks that were signed tigators which would typically what when the secretary does them, she'll go to	
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four or five checks were related to the RTC. And I

then went and actually pulled the bills and billing memos of those checks to find out whether there were past due to clients, or whether they were due in this scheme where he was writing them off against his or other people's fees. I prepared and discovered that most of them had been written off.

Now a large number of them were related to POM, which of course we never actually billed POM for fees because that was a contingency fee matter, so that was a little different. I treated those separately. I prepared two schedules, one showing the ones written off; one just a list of the POM checks. And then I had backup with that.

Web came into town for Christmas in 1993, and Jerry called him. And either over at Web's house or Jerry's house, one, Jerry gave him the schedules only, did not give him the backup, and said we need this explained.

Q What was the dollar amount at that point?

A It was about \$88,000. I subsequently asked; Jerry reported that to me.

Q What did Hubbell say to Jerry?

A Same thing, you know --

Q I am a busy man and I am working on it?

A It can be explained, don't worry about it, I will get you the documentation. Jerry reported that to me --

Q Do you have any understanding as to whether Mrs. Clinton was aware of this issue as of year-end 1993?

A I don't think she was aware of it. I have no information unless Web -- I have actually asked that question and a lot of the attorneys in our firm have been asked that question by various regulators. And no one, to my knowledge, had any discussion with Mrs. Clinton during this entire period of time.

Q About Hubbell's billing irregularities?

A That's right.

Q But it is conceivable she could have known as early as 1993 because the other partners in the firm knew in 1993 about this issue?

MR. KRAVITZ: Objection to the form of the question.

THE WITNESS: In May I think only probably

71 a few partners knew about it. I think most partners 1 would have known about not theft but questions about 2 his billing in June, at least by June. 3 4 Anyway, when Jerry reported that conversation to me --5 6 BY MR. GIUFFRA: Let me ask another question. Do you have 7 any understanding as to whether Mrs. Clinton still 8 speaks with some of her former partners at the firm? 9 MR. KRAVITZ: Do you mean now or back in 10 1993? 11 12 BY MR. GIUFFRA: During 1993, do you have any understanding 13 as to whether Mrs. Clinton spoke with partners of the 14 15 firm? Yes, I think in 1993 certainly she was 16 speaking to -- I know for a fact she was speaking to 17 18 some partners in 1993. 19 O On a regular basis? 20 I don't think on a regular basis. 21 Do you know which partners she would have been speaking to? 22 72 I know Amy Stewart spent some time on the 1 2 health care issues in, I think this same period of time, May of 1993. That's the only one I know for a 3 fact that she was having discussions with. 4 5 When did Amy Stewart first learn of the 6 issue of the Hubbell billing irregularities? 7 It would have been in May or June of that year. Anyway, when Jerry reported his discussion 8 9 with Web, I was concerned that Web just wasn't getting it. And so I asked Jerry to have Web call 10 11 me, and he called me the Monday after Christmas of 12 that year. And I told him during that conversation 13 that at this point a number of his partners, 14 including me, thought he had stolen money from our 15 firm, and that he better get this information to us 16 within a very short period of time or we had no other 17 conclusion to reach other than that there was 18 something improper. And we had ethical 19

22 certainly were suspicious or afraid that they were

20 21 responsibilities, because, though again we had no

hard evidence that any client funds were involved, we

involved. And either he produce it to us or, you know, we would have to take the appropriate action.

He assured me that that was not the case, that he didn't think it would be in anybody's best interest if it became public, and that he would get that to us as soon as he could. So in January of that year, the firm met, and at that point, decided that because of the length of time with no response. we had no choice but to make an ethical referral on Mr. Hubbell.

In the mean -- that January, when we first started getting subpoenas too, we engaged Vinson & Elkins. Subsequent to that, they helped us look at some of this same billing information, and we ultimately made a referral to the Arkansas Supreme Court Committee on Professional Conduct.

O When did Mr. Hubbell learn of this referral to the Arkansas Supreme Court Committee on Professional Conduct?

I think it was some wonderful attorney in our firm leaked that we made the referral, and it was in the newspapers shortly after we had done it, so I

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guess that's the first time.

Do you remember what date that was? 0

March. Α

4 March of 1994? 0 5

A 1994

MR. ATKINS: Can we take a break?

MR. GIUFFRA: Yes.

MR. KRAVITZ: What happened in March of 1994, the referral was made or the referral was

leaked? 10

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THE WITNESS: We actually made the referral in March of 1994, I believe.

MR. KRAVITZ: It was leaked to the newspapers in March of 1994?

THE WITNESS: In March of 1994.

MR. ATKINS: Off the record.

(Discussion off the record.)

BY MR. GIUFFRA:

Q The question with regard to the investigation that was done in January, that you would conduct the investigation -- strike that.

You made the judgment with regard to the

investigation in December of 1993 to conduct an 1 2 investigation? 3 November. Α November of 1993. You confronted Hubbell 4 0 again around Christmastime? 5 6 Yes. Α 7 Then you confronted him again in January? 0 8 Α No. 9 0 What happened then in January? In January, in late January is when we 10 Α 11 first engaged Vinson & Elkins, and neither -- to my knowledge, neither Jerry nor I had any further direct 12 contact with Web, during that -- the remaining time 13 14 period. 15 Vinson & Elkins had discussions with 16 Mr. Hubbell's attorney about getting this information. The position they were still taking was 17 18 that the -- that there was no wrongdoing. We 19 suggested several alternatives including gives us a 20 power of attorney to allow us to write to the credit card companies directly to get these receipts, and 21 they refused to do that. But all that was through 22 76 1 our attorneys. 2 What position was Mr. Hubbell taking 3 through his attorneys as it was reported to you? 4 Same position, that there was no 5 wrongdoing, that the matters could be explained, given time. He did not want to give us his credit 6 7 card receipts. Just under some --What was the theory they gave for not 8 returning the credit card receipts? 9 I don't recall specifically. 10 11 What was the dollar amount at issue at that 12 point, January 1994? 13 It was still approximately \$88,000. We had 14 gone back and pulled the checks for '89 and '90, but we had not pulled any more additional client bills at 15 16 that time, because again, without the credit card 17 receipts, there was really no -- we couldn't prove anything without those credit card receipts, so there 18 19 wasn't any reason to accumulate much significant 20 documentation.

Also, about that time this matter was being

reported in the press independent counsel had been

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appointed and I was going to get questions from the independent counsel about this matter. And somewhere in the same time period we did start pulling all those bills and eventually producing them.

Q When you say "this matter" -A I mean the Hubbell matter.

Q When did the independent counsel learn

about the Hubbell matter?

MR. ATKINS: Whenever it was in the

newspapers.

THE WITNESS: When it was in the

newspapers.

BY MR. GIUFFRA:

O March of 1994?

1 2

A In my very first grand jury appearance on the shredding matter, the independent counsel had a copy of the newspaper and said what can you tell me about this, and I answered those questions.

Q When are firm partner meetings usually held?

A They are held the Monday after the second Tuesday of every month. The executive committee

meets the second Tuesday of every month, and then the firm meeting is just the Monday after that.

Q So the third Monday in every month? MR. KRAVITZ: Not necessarily. BY MR. GIUFFRA:

Q Not always. Okay. I guess that's right. Just briefly, just tell us, go through the rest of the chronology with regard to Mr. Hubbell's disbursement.

A Well, that's -- I mean, again, we had no further contact whatsoever with Mr. Hubbell during that time, especially as soon as the independent counsel got involved. And, again during my initial testimony, I said that I thought that there was some theft involved, though at that point we still -- I mean, I should have believed but I did not believe that we had client funds involved; I thought all the theft was from us.

I thought even if someone was going to steal from the partners, a lawyer would never steal from his clients. And we had no proof because we didn't know what those expenses were for, but we did 1 know that one of -- and I testified before the grand
2 jury that one of the clients on the list was the RTC
3 we were concerned about. So I think that prompted
4 the independent counsel to feel like they should look
5 into it also.

And so, at that point I worked hours and hours and hours with the independent counsel, going over all this information. Again, they were able, through their subpoena power, to obtain the credit card records which we had not received.

We supplied them all our billing information, and I assisted in that investigation, in going over the documentation with them, trying to explain to them the best I could, what was what. And ultimately, he was indicted and pled guilty.

Q Just to clarify something you said earlier, when you got the information with regard to matters that were being handled by Hubbell, Mrs. Clinton, Kennedy and Foster, what exactly was the information you were flipping through, was it billing materials or --

A It was a list of the files then on the

system, that they were the billing attorney for, thatwas the initial source document.

Q Now, going back to the question of the handling of client files, do you have a firm office manual?

A No.

Q Was there any document that sets forth what the firm policy is with regard to the handling of client files? This is the period '80 through '94.

A No.

Q Did the firm malpractice policy contain anything requiring you to do anything with regard to the handling of client files?

A Not to my knowledge.

Q Do you have anything requiring maintaining files confidential, any requirement that the files be maintained confidential?

MR. KRAVITZ: You mean written requirement?

THE WITNESS: No written requirement. BY MR. GIUFFRA:

Q No written requirement?

81 1 There was a general understanding of the privilege, that all clients files would be maintained 2 3 as confidential. 4 Let me direct your attention to the '92 Presidential campaign. Were a number of Rose lawvers 5 6 involve in that campaign? 7 Α No Was Mr. Hubbell involved in that campaign, 8 0 9 as far as you know? 10 No. Α 11 0 Mr. Foster? 12 No. Α 13 0 Kennedy? No. 14 Α Just Mrs. Clinton? 15 0 16 Α Yes. 17 Did any Rose lawyers provide any volunteer 0 18 time to the campaign? 19 Yes, Allen Bird was, I know, one of the 20 guys that went to New Hampshire on the bus and campaigned in New Hampshire. But, as far as I know, 21 there were no other attorneys active in the campaign. 22 82 The firm didn't provide any legal services 1 2 in the course of the campaign? 3 I do not believe that we performed any 4 legal services for the campaign. Now, I know Vince 5 actually opened a client account and did perform some legal services after the election for the transition 6 7 team. 8 Do you know what those legal services were 9 that Mr. Foster performed for the transition team? MR. ATKINS: Just answer that yes or no. 10 11 THE WITNESS: Yes. 12 BY MR. GIUFFRA: Did any of those services relate to Madison 13 and Whitewater? 14 15 Not to my knowledge. What was the practice of the firm with 16 regard to handling -- this is in the period 1980 to 17 18 1993, 1994 -- investment matters for partners? 19 I am not sure I understand. 20 Let me rephrase the question. 0 21 Would the firm provide legal services to a 22 partner in connection with that partner's business

1 investments?

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2 Α Possibly.

> Did the firm have any sort of a policy with regard to providing such legal services, in connection with a partner's business investments?

> No. I mean, it was generally understood, I think, that we wanted to keep that to a minimum. But, I mean, in my area, if somebody wanted me to

9 draft a will for a partner and his wife. I would

10 certainly do so. And if I could help somebody -- I 11 helped a couple with adoptions and that sort of

12 thing, it was certainly allowed and it was done.

Q What about investments of partners not, for example, home or a will, or something along those lines?

There was no general breakdown as to what Α you should and -- should or should not do. If it was a matter that a partner wanted you to do and could you do it within a reasonable amount of time was generally up to the discretion of the attorney that

21 was being asked to do the work, whether they wanted

22 to mess with it or not.

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1 Did partners normally pay the firm for provision of such services? 2 3

No, or not for minor matters.

With regard to Bill and Hillary Clinton, were they ever formally clients of the firm?

Α Yes

When did they become clients of the firm?

8 Well, I know at some point prior to the 9 election, we -- someone in the firm did a couple of 10 wills for them, this would have been in the mid-'80s. 11 I believe. And then certainly after the election, we represented them in the blind trust matters, creating

12 13 and setting up the blind trust. 14 Did the firm formally represent the

15 Clintons in 1991 with regard to their investment in 16 Whitewater Development Corporation?

MR. ATKINS: Bob, I have a problem with the word "formally." Could you tell me what you mean.

MR. GIUFFRA: Strike that.

BY MR. GIUFFRA:

21 Did the Clintons retain the Rose Law Firm 22 in 1991 to provide legal services in connection with

		85
1	their investment in Whitewater Development	0.5
2	Corporation?	
3	A Not that I know of.	
4	Q Do you have any understanding as to whether	
5	any attorneys of the firm provided any legal services	
6	to the Clintons in 1991 in connection with their	
7	investment in Whitewater Development Corporation?	
8	A Yes.	
9	Q What is your understanding of the services	
0	that were provided by firm attorneys to the Clintons	
1	in connection with their investment in Whitewater	
2	Development Corporation?	
13	A It is my understanding that, at some point	
4	in 1991, Mrs. Clinton or someone became concerned	
15	that their name was appearing in the real estate	
6	records, up wherever Whitewater Development was, as	
7	being delinquent real estate tax owners. And they	
8	became concerned about not knowing what was going on,	
9	and so Hillary or Carolyn or someone went to Bill	
20	Kennedy and asked him to see if he could look into	
21	that situation and try to determine just who owned	
22	what, and why their name was appearing in the	
		86
1	newspapers as not paying the property taxes.	
2	Q As far as you know, the Rose Law Firm never	
3	billed the Clintons for the services?	
4	A That's right.	
5	Q Did Mr. Kennedy ever fill out any time	
6	records for the services he performed in connection	
7	with Whitewater in 1991?	
8	A I don't think so.	
9	Q The Clintons never retained the Rose Law	
10		
11	Firm to perform these services?	
	Firm to perform these services? MR. ATKINS: I guess I am confused. What	
12	Firm to perform these services? MR. ATKINS: I guess I am confused. What do you mean by "retained"? When you perform legal	
13	Firm to perform these services? MR. ATKINS: I guess I am confused. What do you mean by "retained"? When you perform legal services, there is attorney-client relationship.	
13 14	Firm to perform these services? MR. ATKINS: I guess I am confused. What do you mean by "retained"? When you perform legal services, there is attorney-client relationship. BY MR. GIUFFRA:	
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13 14 15 16 17	Firm to perform these services? MR. ATKINS: I guess I am confused. What do you mean by "retained"? When you perform legal services, there is attorney-client relationship. BY MR. GIUFFRA: Q The services that Mr. Kennedy provided he was providing in his personal capacity as a gift to the Clintons? A Well, he was to the extent he provided	
13 14 15 16	Firm to perform these services? MR. ATKINS: I guess I am confused. What do you mean by "retained"? When you perform legal services, there is attorney-client relationship. BY MR. GIUFFRA: Q The services that Mr. Kennedy provided he was providing in his personal capacity as a gift to the Clintons?	

was doing it as a personal accommodation to Mrs. Clinton.

1 Do you know approximately how much time 2 Mr. Kennedy spent on this Whitewater matter? 3 I do not 4 Have you ever asked him how much time he 5 spent on the Whitewater matter in 1991? 6 Α I have not 7 0 Have you ever asked him what services he 8 provided to -- strike that. Do you have any understanding as to what 9 services he provided to the Clintons in 1991 in 10 connection with Whitewater? 11 12 Yes, pretty much what I said, he did some 13 property research. 14 Do you know whether Mr. Kennedy provided 15 any services to the Clinton campaign in 1992, 16 relating to Whitewater? 17 I don't believe that he did. Do you know whether Mr. Foster provided any 18 services to the campaign with regard to Whitewater? 19 I do not have any knowledge of that, no. 20 21 0 Do you know whether Mr. Hubbell provided 22 any services --88 1 Not to the campaign. Web was answering 2 questions for us during that period of time, but I 3 don't think he was working for the campaign. 4 What exactly was Mr. Hubbell doing during 5 1992 -- strike that. 6 What questions was Mr. Hubbell answering 7 for the Rose Firm in connection with the Clintons' 8 investment in Whitewater during 1992? 9 I don't even know if he was answering any 10 with respect to Whitewater. 11 I mean, Web was our firm's spokeman during 12 that period of time, and we were getting various 13 inquiries from the press on all kinds of things. And I can't really give you an example of a question he 14 15 may have answered but I don't know of anything he's 16 done specifically on Whitewater. 17 He was answering just questions generally 18 that would arise relating to the fact that 19 Mrs. Clinton was a partner of the firm? 20 Right, what trials she had, and what 21 matters she worked on.

So you have no knowledge whether he did

1 anything bearing on Whitewater or Madison during the 2 campaign?

Α I do not know.

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I will ask you a few questions about Ms. Huber. Do you have any understanding as to whether Ms. Huber was someone who monitored the Clintons' investments for them during the 1980s and up until 1992?

Α No.

Why did you mention before that Carolyn Huber might have been the one asking Bill Kennedy to look into the Clintons' investment in Whitewater?

Because Hillary was pretty much gone during that time because of the campaign.

This would be 1991 though.

Right, but Hillary was still out quite a

17 bit then, even though they hadn't announced they were

18 sort of gearing up for that. And it was not unusual

19 for -- because of the close personal relations that

20 Hillary had with Carolyn for some of her requests to

21 come through Carolyn. 22

Have you attempted to ascertain whether any

90

Federal Express packages were sent, let's say, from 1 2

November 1992 through the end of 1994, from the Rose

3 Law Firm to the White House? 4

Α No.

Have you attempted to ascertain whether any Federal Express packages were sent from the Rose Law Firm to Mr. Hubbell during this period, November 1992 to January -- to the end of 1994?

Α No.

0 Same question with Mr. Kennedy.

11 I have not attempted to ascertain. I have not asked Federal Express about anything. 12

Do you maintain your Federal Express

records going back that far? I would guess that we maintain them for

16 clients, once again, when we stick them in a client 17 file, but I don't think we would necessarily -- I

18 mean, on our Federal Express, we get one bill a month

and our accounting goes through it and allocates. 19

20 And I am sure we have copies of those bills but I

21 doubt we have the air bills.

22 MR. ATKINS: Let me interrupt. By not

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    having air bills, do you mean that you don't know if
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    you have the addressee of various packages?
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            THE WITNESS: The individual sheets they
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    stick in Fed Ex packages.
 5
            BY MR. GIUFFRA:
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             Have you made any effort to ascertain
 7
    whether documents were transmitted, shipped, in any
 8
    fashion, between November 1992 through the end of '94
    to Mrs. Clinton, the White House, Hubbell, Kennedy,
9
10
    Foster?
11
             Yes.
        Α
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        0
             And what have you ascertained?
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             Well, back during -- back during -- we are
14
    still in the subpoena days. We obviously -- when I
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    say "we," it was either myself or people in the firm
16
    or Vinson & Elkins -- in trying to discover where
17
    various files were, one of the things that came up
18
    early on was that, when some of Hillary's files.
19
    personal files had been maintained in the firm.
20
             When was this exactly?
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             This was apparently when Ms. Clinton moved,
        Α
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    somebody was actually going to move into her office,
                                                             92
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    so a lot of her personal matters were just boxed up
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    and moved into a conference room on the third floor
3
    of our building. And someone, I think her secretary
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    frankly, before she left, had made sort of an index
5
    of those files. Some of those personal files had
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    been shipped up to her, sometime --
 7
             In Washington?
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             In Washington, yes.
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        Α
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             Do you recall when that was?
        Q
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        Α
             I think, I want to say, like, July.
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        O
             Of 1993?
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        A
             Of 1993.
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        Q
             Do you remember exactly when in July of
14
     1993?
15
        Α
             I sure don't.
16
        0
             Do you remember if it was before or after
17
    Mr. Foster's death?
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             It would have been before Mr. Foster's
        Α
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    death, because one of the reasons they weren't all
20
    shipped up, Amy Stewart was sort of overseeing that
21
    project and Amy was very busy during that time
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period, and frankly, she said she would have

submitted the rest of them but she just never got around to it.

And so in January, or when we are first started getting subpoenas, Amy came to me and said I've got these files, what should I do with them. We locked them up and --

Q What were the files that you locked up?

A They were mostly files relating to the Children's Defense Fund. Mrs. Clinton had done a lot of work on education reform in Arkansas, a bunch of files on education reform. That sort of thing.

Q Any client files?

A There were not any client files, no.

Q Okay. So you feel there had been some documents that had been shipped to the White House prior to Foster's death in July?

A Right.

Q And then after Foster died, there were some boxes still at the office?

A Correct.

Q And you put those -- you stored them separately?

A Correct.

Q Approximately how many boxes were left?

A I don't know. Maybe -- I would say one or two lateral files, something like that.

Q Do you have any understanding as to how many boxes were shipped to the White House?

A No, I don't.

Q Do you know if it was more than one or two lateral files? Do you know if there were any client files contained in those files?

A No, there were not.

Q Do you know whether any records relating to the Clintons' Whitewater development were shipped?

A They were not, no.

Q Do you know where the Clintons maintained their files with regard to Whitewater Investment Corporation during the period 1980 through '94?

A The only information I have is that, during the work in 1991, Bill Kennedy may have had some records relating to Whitewater Development. What they were, I don't know.

Q And those would have been maintained at the

	•	95
1	Rose Law Firm?	75
2	A Yes.	
3	Q And do you know, were those files	
4	subsequently removed from the Rose Law Firm?	
5	A Yes.	
6	Q Do you know when that occurred?	
7	A I believe it was in February or March of	
8	1992.	
9	Q Do you know the circumstances under which	
10	those files were removed from the Rose Law Firm?	
11	A Not exactly. It is my understanding that	
12	they were going to be reviewed at or about the time	
13	that The New York Times article was coming out, until	
14	someone I don't know who did it took them over	
15	to the campaign so they could remove them.	
16	Q Do you have any understanding who might	
17	have removed them from the Rose Law Firm?	
18	A I don't know.	
19	Q Do you have any understanding as to	
20	approximately how many documents that would have	
21	been?	
22	A Personal knowledge, no, I don't know.	
	A Tersonal knowledge, no, I don't know.	0.6
		96
1	Q After the removal of those files in early	96
1 2	Q After the removal of those files in early 1992, there would not have been any other Whitewater	96
1 2 3	Q After the removal of those files in early 1992, there would not have been any other Whitewater files within the confines of the Rose Law Firm?	96
1 2 3 4	Q After the removal of those files in early 1992, there would not have been any other Whitewater files within the confines of the Rose Law Firm? A Not to my knowledge.	96
1 2 3 4 5	Q After the removal of those files in early 1992, there would not have been any other Whitewater files within the confines of the Rose Law Firm? A Not to my knowledge. Q And you have attempted to ascertain whether	96
1 2 3 4 5 6	Q After the removal of those files in early 1992, there would not have been any other Whitewater files within the confines of the Rose Law Firm? A Not to my knowledge. Q And you have attempted to ascertain whether such files exist?	96
1 2 3 4 5 6 7	Q After the removal of those files in early 1992, there would not have been any other Whitewater files within the confines of the Rose Law Firm? A Not to my knowledge. Q And you have attempted to ascertain whether such files exist? A From the people still at the firm.	96
1 2 3 4 5 6 7 8	Q After the removal of those files in early 1992, there would not have been any other Whitewater files within the confines of the Rose Law Firm? A Not to my knowledge. Q And you have attempted to ascertain whether such files exist? A From the people still at the firm. Q You made no attempt to talk to Mrs. Clinton	96
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1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18	Q After the removal of those files in early 1992, there would not have been any other Whitewater files within the confines of the Rose Law Firm? A Not to my knowledge. Q And you have attempted to ascertain whether such files exist? A From the people still at the firm. Q You made no attempt to talk to Mrs. Clinton about those files? A None, Vince nor Web. Q Or counsel? A No. Q Who did you speak to at the firm about those Whitewater files? A Again, during this period of time, we were intentionally, very much having no contact with anybody in the administration. MR. ATKINS: Let me interrupt. For what	96
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97 So literally we were -- anything we were 1 2 finding out was wasted upon our own investigation. 3 One of the earliest things we did was to back up all 4 of our computer information on disk. 5 BY MR. GIUFFRA: 6 0 When was that? This would have been early -- January and 7 8 February of 1994. I asked all of our secretaries to 9 go back and check any indexes that we had. And we 10 gave them a list of words, Madison, Whitewater, 11 McDougal, that sort of thing, including for people 12 who had left the firm. One of our secretaries found 13 a document labeled Whitewater in one of the old 14 libraries, a paralegal, and I asked her to print those out. And those were -- I think they have been 15 16 produced. I know they were produced. Little grids 17 showing the lots of properties. What was the name of the paralegal? 18 19 Sue Jones, Sue Cathey-Jones actually. Α 20 Did she work for Mrs. Clinton? 0 21 No, she works for Bill Kennedy. And so 22 that's the first information that we had that we had 98 anything at all related -- at that point we had 1 already searched all of our hard files and we knew we 2 3 didn't have any hard copies of anything. 4 And so that's the first information that I 5 had that we had any files whatsoever relating to 6 Whitewater. 7 Let me ask you a question about your computer system. Let's say between the period --8 9 strike that. Between '85 and '94, have you had a number 10 11 of computer systems? 12 Two. 13 0 Two? What was the first computer system 14 you had? Beginning in the early '80s, we had a Wang 15 Α system, and we went to a more of an IBM PC-based 16 system in '92. 17 18 Do you recall when in '92? 0 19 No, I don't. It would have been early '92. Α

Was the Wang system a big mainframe system?

Were there large tapes that maintained the

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Q

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Yes.

information? 1

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Yes -- well, large tapes for the accounting 2 system, yes. For the word processing documents, we 3 4 kept that on floppies.

Were the floppies stored any place or just 5 individual attorneys had them? 6

No, they were stored in a common location.

O And how long did you retain the floppies?

As far as I know, we still have almost all of those.

O Has any attempt been made to look through those floppies for documents relating to the usual suspects, Madison, Whitewater, Jim McDougal?

Yes. The floppies themselves are no longer readable without great difficulty. We maintain hard copies of the libraries so we searched the libraries

16

for those documents. We identified a few -- I am not 17 sure we identified any early on having to do with 18

Whitewater. We did have some on some of the other 19

things that were on the subpoena by the independent 20

counsel. And so, going through somebody in New York 21

or something, we were able to pull some of those 22

100

documents off the floppies. 1

By using high-tech technology?

Some cubbyhole in New York still has a Wang Α system that works. I don't know how it works.

Our committee has had experience with removing documents off of disks. Did you attempt to use a sophisticated program to pull off a program that perhaps had been deleted from those disks?

No. A

10 O Are the disks presently in the possession of the law firm or the independent counsel? 11

The disks themselves are still in our 12 13 system.

14 You don't know whether independent counsel used a sophisticated system --15

Obviously the disks contained a lot of 16 information that was privileged and we tried to pull 17 18 off what we could.

So everything that would have been on those disks relevant to our investigation has been turned over to us?

MR. ATKINS: Yes, although I think most of

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1
    the documents that have been pulled off those disks
 2
    that were found were ones relating to the Frost
 3
    litigation, which you and I agreed that you did not
 4
    want
 5
            THE WITNESS: Well, the only thing is, the
 6
    option.
 7
            MR. ATKINS: One of the documents we
 8
    produced to you this morning was the library -- the
9
    option was the library for the disk option?
            THE WITNESS: We were attempting to read
10
11
    that
12
            BY MR. GIUFFRA:
13
             RS 2373. This is a -- take this across the
    top. I understand the G is Mrs. Clinton's
14
15
    identification code?
16
        Α
             Library, yes. Identification.
             Was it the 19 G or just the G?
17
        0
             Just the G
18
        Α
19
             And option is the document?
        Q
20
        Α
             Name.
21
        0
             Madison Guaranty is the client?
22
        A
             Client.
                                                           102
 1
        0
             Clinton is the person who inputted the
 2
    document or secretary?
 3
             Clinton -- really the G means it is her
        Α
 4
    library.
 5
             Her computer library. Does that mean her
        0
    secretary -- this would have been --
 6
 7
             This name is the person who actually
 8
    created the document.
 9
            Who is that?
        0
10
             Jamie Chatham. She was a word processing
11
    operator. She was not a secretary. During those
    years we had a word processing center.
12
13
            If somebody wanted something typed up, they
14
    would bring it to the word processing center and it
15
    would be typed up?
16
             Or dictated or marked up form.
17
             The G indicated the person who initially
18
    prepared the document was Mrs. Clinton?
19
             I guess that's likely. It doesn't have to
20
    be that way. It could have been -- an associate
    could have been doing work for a partner or something
21
22
    like that. And it could have been put in her
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1	library.	
2	Q Would the associate have their own	
3	libraries?	
4	A Typically they did, yes.	
5	Q Unless an associate made a judgment not to	
6	use their own library but to use a partner's	
7	library	
8	A But it wouldn't have been in the judgment	
9	of the associate, it would have been in the judgment	
10	of the word processing operator, where to actually	
11	put that.	
12	Q When did you discover this option	
13	agreement?	
14	A We had no information about this option	
15	agreement until approximately a month ago, when the	
16	people at Pillsbury Madison wanted to interview one	
17	of our attorneys. And in the before the interview	
18	they sent us just a bound copy of several documents	
19	they wanted to ask him about. Almost every one of	
20	them which we had seen before, other than this	
21	there were two copies of the option agreement that we	
22	had not seen before.	
	104	
1	Q And how did Pillsbury have additional	
1 2	Q And how did Pillsbury have additional copies of the option agreement?	
1 2 3	Q And how did Pillsbury have additional copies of the option agreement? A I don't know.	
1 2 3 4	Q And how did Pillsbury have additional copies of the option agreement? A I don't know. Q Did they have the disks?	
1 2 3 4 5	Q And how did Pillsbury have additional copies of the option agreement? A I don't know. Q Did they have the disks? A No. These were originals, signed copies.	
1 2 3 4 5 6	Q And how did Pillsbury have additional copies of the option agreement? A I don't know. Q Did they have the disks? A No. These were originals, signed copies. Q What is the genesis of this particular	
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1 2 3 4 5 6 7 8	Q And how did Pillsbury have additional copies of the option agreement? A I don't know. Q Did they have the disks? A No. These were originals, signed copies. Q What is the genesis of this particular document bearing Bates number RS 2373? A That's from the record copies of our Wang	
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1 2 3 4 5 6 7 8 9	Q And how did Pillsbury have additional copies of the option agreement? A I don't know. Q Did they have the disks? A No. These were originals, signed copies. Q What is the genesis of this particular document bearing Bates number RS 2373? A That's from the record copies of our Wang indexes. MR. ATKINS: May I ask this gentleman to	
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1 2 3 4 5 6 7 8 9 10 11 11 12 13 14 15 16 17 18 19	Q And how did Pillsbury have additional copies of the option agreement? A I don't know. Q Did they have the disks? A No. These were originals, signed copies. Q What is the genesis of this particular document bearing Bates number RS 2373? A That's from the record copies of our Wang indexes. MR. ATKINS: May I ask this gentleman to identify himself. MR. BEN-VENISTE: Richard Ben-Veniste. MR. ATKINS: Thank you. BY MR. GIUFFRA: Q It says on this document "from disk 0006 G." What does that refer to? A That's just how the floppy disks are indexed, so it can be found. Q Does the 190 G on the upper right-hand	

computer disks that were assigned to her?

A Well, when a document is created in the system -- I mean, obviously the system only has so much capacity, and so every so often the documents are cleaned out and downloaded onto floppies for storage.

And so on that disk should be contained document 190, or I think it is 190 G, before that would be 189 G, and after that it would be 191 G.

- Q But there may be additional disks that would be --
 - A I am sure there are, yes.
- 13 Q Would an individual lawyer have a disk that 14 was assigned to that lawyer?
- 15 A I don't know the answer. I think that they 16 archived that by library, so I think all of
- 17 Mrs. Clinton's documents and all of my documents
- 18 would have been on a disk, at least to the capacity
- of that disk, and they would fill somebody else's up. But I don't know, they could be a mixture.
- Q Is it possible to date the creation of this document, this option document by looking at the

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1 number 190 G?

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2 A No. No. I mean, not specifically.

Q An effort has been made to look through all the various indices of these disks to determine whether there would be additional Madison Guaranty,

6 Whitewater documents?

7 A Yes, right.

Q Let's talk about the computer, the maintenance of the computer records for the accounting records. Those were maintained on the larger tapes?

12 A Correct.

13 Q Are those tapes still in existence for the 14 period '85, '86?

A No.

Q When were those tapes discarded?

A Well, for the accounting records, we backed up accounting daily. And on the Wang system, you had these big what they call disk packs, they really were

20 these big disks (indicating). And the procedure

21 throughout the period, all through the '80s up until

22 1992, was we basically kept a 90-day backup.

107 1 So on any certain date, we would back up 2 the accounting system. It would be put on a big tape. It would go into the system, and so we would 3 have 90 days backup. When the next day was used, we 4 5 would take the end of the tape, pull it and reuse 6 it. So that there was -- we would continually have 7 the backup for any 90-day period. 8 In 1992, when we converted the system, we backed up everything one last time. And we still 9 maintain those tapes, but those are the only tapes we 10 11 do maintain 12 How far back do those tapes go, the ones 13 that have been maintained when you changed over from 14 the Wang to the IBM PC system? 15 Well, when you say how far they go back, 16 when we backed them up, we backed up everything on the system as of that time. 17 18 Q Only 90 days back, or would it have been 19 stuff that was created in 1985, 1986? 20 Theoretically. 21 MR. ATKINS: Let me interrupt here. Do you mean that the information that would have been on the 22 108 1 computer and backed up at that time? 2 BY MR. GIUFFRA: 3 My question is, the material that was 4 created in '85, '86, okay, the accounting information, was that material in any way backed up 5 when you changed over from the Wang system to the IBM 6 7 system and kept someplace in the Rose Law Firm? 8 Only to the extent it then existed on the Α 9 system. 10 Why would it -- okay. What was the --11 strike that. 12 Now, if information was created and put on 13 the accounting information for '85, '86, at some point would that information have been deleted from 14 15 the computer system? 16 Α Yes 17 0 When would that have occurred? 18 When it was billed. Α 19 And assuming the bill was paid?

been on the system would have been whatever the form 21 22 of the bill was or the line item time entries, the

As soon as the final -- what would have

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1 billing memos.

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As soon as the final bill is printed, they print out what they call a BAT, a bill audit trail. which is the billing memo also. And at that point, under the Wang system, and in fact under our current system, that information is purged from the accounting records, and the only copy you have at this point is the hard copy.

When would have been the last bill sent by Rose to Madison?

According to our fee credit reports, there was a fee credit received in '87, so I assume a bill would have been sent in '87.

So the system would have been purged of all Madison bills as of that point?

It would have been purged as of the time -in the system as of that time.

18 Has any attempt been made by the Rose Law 19 Firm to determine whether you could use a 20 sophisticated computer program to retrieve 21 information that had been purged from the Wang tapes?

We have offered to -- we have told the

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1 independent counsel about these Wang disks. We have 2 offered to, if they want to pay for it, to make them 3 available -- though we will have to supervise it 4 because, obviously, you will have a significant 5 amount of privileged information on it -- to go 6 through and try to search those documents, those 7 disks to see if there is any relevant information on 8 them. 9

0 As far as you know that has not been done?

It has not been done. Α

11 0 Bill audit trails, are they different from 12 the billing memos that are prepared? 13

Yes. Α

> O What is a bill audit trail?

A bill audit trail is simply a summary of the bills sent and the receipts collected from that client. So there is no specific information as far as what the time was -- the bill was submitted on this day and paid on such and such a date. It is a summary document.

Okay. Turn to another subject. During the period 1985, '86, how was compensation of partners

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determined at the Rose Law Firm? We are generally compensated on a five-year moving average. So, for the fiscal year-end being January 31, 1986, we will say, at the beginning of that year, that partner would have known what their percentage of the firm distribution would be for the year. And that percentage would be -- was an average of the five yearly percentages assigned to that attorney for the prior five years. Q And what factors would go into determining what the yearly percentage for a partner would be? MR. BEN-VENISTE: The question has no relevance. MR. GIUFFRA: Mr. Ben-Veniste, one of the issues -- strike that. Are you both going to be objecting? MR. BEN-VENISTE: I am not objecting. I am asking a question about the relevance when we get into the compensation of partners. MR. GIUFFRA: It is relevant to ascertaining what benefits Mrs. Clinton received from the Rose Firm's representation of Madison Guaranty. 112 MR. BEN-VENISTE: Relevant to what? MR. GIUFFRA: Relevant to -- and I don't want to spend much time on this --MR. BEN-VENISTE: Explaining it to me or on going into it? MR. GIUFFRA: Explaining it to you, Section 1(b)(A), (3)(A) of the resolution. What's the pending question? MR. BEN-VENISTE: I don't see any relevance. If we are trying to conserve our resources here. I wondered why it is that we are going into the compensation of the Rose Law Firm partners 10 years ago. MR. GIUFFRA: Just read the question (The reporter read the record as requested.) THE WITNESS: That partner's level of production, participation in management, assistance in recruiting, overseeing associates, bringing in new business, all those are factors. BY MR. GIUFFRA:

Who made the determination of what a partner's yearly percentage would be?

113 1 The executive committee made 2 recommendations to the firm. What time period are 3 you asking about now? 4 0 '85, '86, '85, '86. The primary factor at that time 5 6 would have been strictly production. And there would have been adjustments to those numbers, based upon 7 8 some of these other factors, which would have been 9 recommended by the executive committee and voted on 10 by the firm. 11 Now, when you say "strictly production," what do you mean by that? 12 13 A Fee credits 14 And would fee credits be determined on the 15 matters -- be based on the matters that a partner 16 billed? 17 Α The matters that a partner worked on. 18 0 Worked on. Would there be a differentiation between worked on versus being the 19 20 billing partner? 21 Oh, sure. You will get fee credits on any 22 matter you worked on, whether you billed it or 114 1 someone else billed it. 2 Q That would just be your time? 3 Α Right --4 0 So --5 -- for the most part. Α 6 -- if you billed 10 hours that would be 7 calculated into your production? 8 Generally speaking, that's right. A 9 And what about if you were the billing 10 partner on a matter and others performed the work on 11 that matter? 12 Then, unless you could justify some supervisory fee or something like that, then you 13 know, the fee credits would go to the partners doing 14 15 the work. 16 Q If a matter was staffed with a partner and 17 an associate, and the associate did 60 percent of the work and the partner did 40 percent of the work, and 18 19 the matter was billed at, say, \$10,000, what fee

credit would the partner receive for that matter? 21 MR. ATKINS: Bob, I hate to interrupt. I 22 guess for purposes of your assumptions here, are you

115 assuming they are at the same billing rate when you 1 say 40 percent of the work and 60 percent of the 2 work? 3 MR. GIUFFRA: No, I am not making that 4 assumption. Let me rephrase the question. 5 BY MR. GIUFFRA: 6 7 If a partner and an associate worked on a matter, would the partner get fee credit for all the 8 time spent by the associate on that matter? 9 MR. BEN-VENISTE: Are you talking about 10 10 years ago or are you talking about now? 11 MR. GIUFFRA: 1985, 1986, Richard. 12 13 THE WITNESS: Fee credits were used as a measure of productivity. It had nothing to do with 14 money out the door. It was pretty much up to the 15 discretion of the billing attorney as to what they 16 did with fee credits. So, for example, if an 17 associate had \$2000 worth of time on a matter that we 18 billed for \$4000, but did an exceptional job, the 19 billing attorney had every right to give that fee 20 credit -- more fee credit than they deserved. Or if 21 22 an associate --116 Did the fee credit go to the associate or 1 2 to the partner? 3 A It went to both. It went to both. We didn't -- we don't use fee credits for associates. 4 for compensating associates but they receive -- they 5 6 did get fee credits. On the same token, if an associate, you know, did two hours' worth of work and 7 the partner didn't think they -- didn't like the work 8 they might not give the associate any fee credits for 9 that matter. It was within the discretion of the 10 billing attorney as to how those fee credits were 11 12 allocated. 13 Q So that if a matter was billed at, say, \$10,000, would the \$10,000 be -- and the partner and 14 associate worked on the matter, would the \$10,000 be 15 16 allocated in terms of fee credits between the partner 17 and the associate? 18 Yes. Α So maybe 8000 would go to the partner and 19 2000 to the associate? 20 21 That's possible, yes. Α

The compensation of both the partner and

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1 the associate would be based on the fee credits?
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A In a very indirect way, yes.

Q What do you mean by "very indirect way"?

Well, I mean, a particular fee credit on a matter meant that that was one level of productivity in addition to looking at some of these other things, bringing in new business, the number of hours the partner put in that year. And so at some point during the year, when these recommendations were made, we would -- we tried to convert everything we do into fee credits, just as a matter of -- measure of productivity.

So, for example, for firm management they don't pay me for firm management. At the end of the year I get fee credits. I wouldn't actually bill anybody for that, it is just made up money. And at the end of the year, I compare my fee credits to somebody else's fee credits, and my percentage is 2 and theirs is 1, and that's my percentage for the year.

Q Do you know what percentage -- strike that.

Do you know the amount of fees that the firm billed Madison Guaranty during the period '85, '86, '87?

A Based upon the fee credit reports, it's -for '85, '86, it was approximately a little over
18,000, and I think we had a \$500 fee credit in '87,
so still something short of \$19,000 in fees.

Q Were any fees billed in '84?

A We have no record of one.

Q Do you have any records indicating a fee credit that Mrs. Clinton received for this \$18,500 billed?

A Same -- whatever that sheet reports, something around 7- or 8000. The summary.

Q I show you a document bears Bates number RLF 203030. Could you provide for the record an explanation of how this document was prepared.

MR. KRAVITZ: Can I see it for a minute. I think I have the same document with another number on it.

THE WITNESS: This document was created.

THE WITNESS: This document was created sometime in November of 1993. This relates back to

something that I mentioned earlier, that we were beginning to get press calls. I was trying to determine who had done what for Madison.

We had made a quick review of any bills we had inside the building, which there were none at that point. Didn't surprise me. I assumed we didn't have any. So I asked my office manager to go pull the fee credit reports. I actually gave her a copy of my fee credit reports and she prepared this summary.

BY MR. GIUFFRA:

- Q Now, if I could direct your attention to the first pages of this document, it indicates that there were no fees credited for the period August 1985.
 - A Correct.

Q And we have received evidence indicating that the firm did some work -- strike that.

Are you aware of the fact that the firm did some work in August of 1985 for Madison Guaranty?

A Yes.

Q What work are you aware the firm did in

1 August of 1985 for Madison Guaranty?
2 A I believe that was the approxim

A I believe that was the approximate time frame that we were doing some work on the acquisition of the IDC property.

Q The Castle Grande transaction?

A Right.

Q And do you have any understanding as to why the work that was performed in August of 1985 was not reflected on this recap?

A Well, this recap is not a reflection of when the work was performed; it was a reflection of when the fee was collected for the work.

Q Fee collected as opposed to being billed?

A Collected.

Q What information was used to prepare this document, this final recap?

A Our monthly fee credit reports.

Q Now, let's turn to the first entry, May 1985, it says "Clinton Madison Guaranty 840." Would that reflect the amount of time that Mrs. Clinton worked on Madison Guaranty matters, the 840 number?

A It reflects the amount of fee credits she

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121
 1
    received on the bill.
 2
             Okay. Is there a correlation between fee
 3
    credit and hours billed?
 4
             In most instances there is a correlation,
 5
    yes.
       O Is it a direct correlation?
6
 7
        Α
             No.
8
             The allocation of the fee credits, for
    example, for May 1985, those would have been done by
9
10
    the billing partner?
11
        Α
             Yes.
        O In this case Mrs. Clinton?
12
13
             I believe on these matters Mrs. Clinton was
14
    the billing partner, yes.
             What does it mean to be a billing partner
15
16
    at the Rose Law Firm?
             MR. KRAVITZ: You mean back in 1985?
17
18
             BY MR. GIUFFRA:
19
             1985-'86.
        0
20
             It just means that's the person that's
21
    responsible for seeing that the client is billed.
    They will be the one that will obtain the billing
22
                                                             122
    memo, mark it up, send the clients the bill.
 1
 2
        Q Does being the billing partner mean that a
    partner has certain supervisory responsibilities for
 3
 4
    the associate work?
 5
             Not in all cases, no.
 6
        Q Based on your knowledge, in '85, '86, would
 7
    the procedures in place whereby if an associate, for
 8
    example, sent a letter to a client or to a government
    agency, that associate had to run the letter by a
 9
     partner for review?
10
11
             No, not in all cases.
             What would be the reasons? When would an
12
13
     associate require the review of a partner and when
    could an associate just send the letter out?
14
15
             There were no fixed rules. If an associate
     received the matter, on its own, I mean, it would be
16
17
     within the associate's judgment as to whether he
     needed to run it by a partner or not. If a partner
18
     had given the matter to the associate, it was a
19
     question of whether the associate had asked them to
20
21
     run it by them before they sent it on.
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If a correspondence was signed the Rose Law

Firm rather than by an individual lawyer, would that 1 have had to have been reviewed by a partner prior to 2 3 the signature? 4 Not just general correspondence; an opinion 5 letter would have been signed or approved, not just 6 correspondence. 7 Would correspondence with a government 8 agency signed the Rose Law Firm, would that have had 9 to have been reviewed by a partner? A No, not necessarily. 10 11 O Let's turn to July 1985. MR. KRAVITZ: Hey, Bob, is this a good time 12 to take our break? 13 14 MR. GIUFFRA: Why don't we do it now. 15 That's fine. 16 (Whereupon, at 12:35 p.m., the deposition 17 was recessed, to be reconvened at 1:35 p.m. this same 18 day.) 19 20 21 22 124 1 AFTERNOON SESSION (1:42 p.m.) 2 Whereupon, 3 RONALD M. CLARK 4 resumed the stand and, having been previously duly 5 sworn, was examined and testified further as follows: 6 MR. GIUFFRA: Back on the record. 7 EXAMINATION (Continued) 8 BY MR. GIUFFRA: 9 Mr. Clark, tell us why the material was available to prepare this recap document. 10 MR. ATKINS: Let me help you. We produced 11 all the backup information to you from the recap, but 12 go ahead. 13 14 BY MR. GIUFFRA: Why was that information still maintained 15 by the law firm? 16 17 This was actually prepared from my own copies. Each partner receives a copy of the monthly 18 reports. It just so happened I made partner in 19 February of 1985, and I actually still had my own 20 21 copies in a box behind my desk.

You had maintained the fee credit

770 125 1 information --2 A I had --3 -- personally, it wasn't like you got it 4 off the computer system? 5 It was my hard copy I used. Α 6 O With regard to --7 MS. FISHER: I'm sorry, that started in 8 February 1985, that you started getting these? 9 THE WITNESS: Yes, I started getting them 10 in February 1985. 11 MS. FISHER: Were you able to locate any 12 prior to February 1985? 13 THE WITNESS: Yes. 14 BY MR. GIUFFRA: 15 From other partners? 0 16 Α From other partners. 17 O So you were able to get a fairly 18 complete --19 Α Right, I did not have '83 and '84, but I 20 obtained them 21 For example, let's turn to the second page 22 of this document, January '86. There is an entry, it 126 1 says "Clinton Madison Guaranty stock offering in IDC 2 \$2731.25." Now, that's her allocation of her fee 3 credit for the matter stock offering in IDC, for the 4 Madison Guaranty client; right? 5 Α Right. 6 O Now, based on what you have told us this 7 morning, the 2731.25 figure, that may not reflect her 8 hours billed times her hourly rate? 9 Α That's correct. 10 O So she may well have been taking time of 11 other people working on the matter and allocating it 12 to herself, in terms of giving herself a fee credit? 13 Or giving time that she was entitled to to 14 other people. 15 So it could be going in either direction? Q 16 A It could be going in either direction. 17 Now, if Mrs. Clinton -- by virtue of the 18 fact that Mrs. Clinton was the billing partner, did

she get additional fee credits for Madison work?

Not as a matter of policy, no.

It would all be based on the fee credit

19

20

21

22

O

information?

127 That's correct. The advantage of being the billing partner 2 0 3 is you can allocate the fee credit; right? That's -- I wouldn't call it an advantage. 4 5 If's a fact that she allocates fee -- the billing 6 partner allocates fee credit. 7 Q So like, for example, in May of 1986, there 8 is \$112.50 allocated to Mr. Massey, \$48 to Mr. Arnold, and the rest of it is to Mrs. Clinton. 9 It is possible that Massey and Arnold could have been 10 doing most of the work during that period for Madison 11 12 Guaranty? 13 Well, I mean, in the realm of anything is Α 14 possible, yes, it is possible. But your view would be that this would 15 actually more likely than not reflect her actual --16 A Generally speaking, it should reflect her 17 work within some range of --18 19 Of time? 0 20 A Of variance, yes. Okay. So the information, fee credit 21 22 information, there is a connection between fee credit 128 1 information and hours billed? 2 A Yes. 3 Can you give us any rough estimate of what 4 the correlation between the two would be? 5 A Not on any particular matter. In terms of billing and -- strike that. 6 7 In terms of -- did you base it on 8 partnership units or just -- strike that. 9 In terms of compensation of partners, was it based on partnership units or just this fee credit 10 information in '85 and '86? 11 It was your assigned -- you were assigned a 12 13 percentage and that percentage was the average of the five yearly percentages you had been assigned and how 14 we assigned the yearly percentages, one of which was 15 production. 16 In that time, '85, '86, it was strictly 17 18 production on which that was based? Not strictly but primarily. Management, 19 20 for example, we did compensate.

Would Mrs. Clinton get any extra percentage

because of the fact that she was the billing partner,

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129
 1
    other than through the fee credit information?
2
        Α
             No.
 3
            MR. ATKINS: This is '85, '86.
4
            THE WITNESS: No.
5
            BY MR. GIUFFRA:
6
             Did you get any percentage of credit
7
    because you were the person that brought the client
8
    in?
9
        Α
             No.
10
             So this was a system that really
11
    compensated people who worked hours?
12
             Ultimately, yes. Ultimately, our -- the
13
    biggest element of our compensation system was to
14
    reward productivity.
15
             Meaning hours billed?
        Q
16
             Meaning fees collected.
        A
17
             There is a difference between fees
18
    collected and hours billed
19
            I mean, if someone was just a pure
20
    rainmaker and brought in a lot of clients but did not
    do much work themselves, how would that be reflected
21
22
    in their compensation?
                                                            130
 1
             Well, again, it depends on strictly the
 2
    matter. I mean, just to pull an example out of the
 3
    air, if we had a very sophisticated securities matter
    where we were rendering, for example, an opinion, a
 4
 5
     10(b)(5) opinion, we might only have 10 hours of work
    but we might charge $40,000 for that opinion. I
 6
 7
    mean, that is a negotiation between you and your
 8
    client.
 9
            And so the person who brought that work in
10
    might receive some of that credit, the fee credit,
11
    even though they may not actually have done the
12
    work. But if you look at the billing memo, you would
13
    only see 10 hours -- well, 50,000 divided by 10 hours
     is a pretty strong hourly rate, so that's why I say,
14
     generally speaking, it was tied to the work you'd
15
16
     done. But if you were able to bring in those type
17
     matters, you might not actually have that many hours,
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20 What about a situation where you brought in 21 a matter, the bulk of the hours were done by an 22 associate, you did very little of the work other than

but still have a significant amount of fee credit, or

a contingency fee case in litigation, for example.

1 some supervision, was the system set up that you 2 would get compensated for that at the year end?

- A No. not in any significant manner.
- Was an attorney -- did an attorney get fee credit when the work was done, or when it was billed, or when it was paid?

Generally speaking -- not always, but generally speaking -- allocations are made when the bill is produced, so when the billing memo goes down to accounting, the attorney makes the allocations at that point.

Now, you don't actually receive the allocation, they don't go in the monthly report until the fee is collected. If it is never collected, you never get the credit.

So that means that ultimately -- strike that.

I am a little confused. At the time you 19 bill the client, you get a fee credit, but then it might get deducted later on if the client doesn't pay?

> No. At the time -- generally speaking, you Α

> > 132

didn't have to do this, but generally speaking, when a bill was produced to be ready to mail to a client, the attorney would indicate on the billing memo how allocations were to be made, that would just be handwritten, or typed, something. That would never be acted upon until the money was actually received.

Okay, I understand.

Just a couple more questions with regard to transmission of documents out of the Rose Firm. Are you aware of how Mr. Hubbell may have removed documents or client files from the firm before he left?

13 Α No.

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4

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- Are you aware of whether or how Mr. Foster may have removed client files?
 - Α No
- 17 Have you done any investigation to 18 determine whether there were any shipments of 19 documents to Mr. Hubbell during 1993 --
- 20 A 1993
- 21 0 -- from the firm?
- 22 Investigations to the extent that we have Α

asked if anybody recalls shipping any documents, and 1 2 the answer is no. Anyone recall shipping any documents to 3 4 Mr. Foster during 1993? 5 No. Α 6 With regard to Mrs. Clinton --0 7 The ones I talked about Α 8 0 The ones you talked about. 9 Was a procedure set up during the 1980s and 10 up through 1992 whereby Mrs. Clinton would not receive funds generated by the firm from its 11 12 representation of clients before Arkansas state agencies? 13 14 A No. It was for fees received for 15 representing state agencies, not representing clients from state agencies. 16 17 So if a fee came in for representing the 18 state of Arkansas --19 Or an agency. -- or an agency of the state of Arkansas, 20 she would not receive any of -- those fees would not 21 be credited to her? 22 134 1 We actually backed -- we actually backed out the fees to determine what her compensation was. O Would that include ADFA? 3 4 Α Yes. 5 0 But if the firm represented a client before a state agency she would receive fees? 6 7 If it was a private client, yes. A And do you have any understanding as to 8 whether Mrs. Clinton ever, herself, represented 9 private clients before Arkansas state agencies? 10 The only information that I have is with 11 12 respect to the preferred stock offering. 13 And that has to do with Madison Guaranty? 14 A Right. Q Were any procedures put in place to insure 15 16 that Mrs. Clinton did not represent private clients before Arkansas state agencies? 17 18 Α No. 19 When did the Rose Firm start backing out 20 fees received from state agencies from Mrs. Clinton's 21 compensation? A It was sometime in the mid-'80s, done at 22

135 Hillary's -- well, it would have been done 1 2 approximately, probably approximately 1982, in 3 response to Hillary's request to do so. 4 Do you know the circumstances behind her 5 request? 6 It had come up in one of the gubernatorial Α 7 campaigns as an issue, so she asked she not receive 8 any benefit from state fees. 9 With regard to Mrs. Clinton's 10 representation of Madison in connection with the 11 issuance of preferred stock before the Arkansas 12 Securities Commission, what information do you have 13 about that representation? 14 Gee, I don't -- pretty broad question. I 15 mean, I know we did the work. Hillary and Rick were 16 involved, primarily Rick. 17 You mean Rick Massey? 18 A Rick Massey, I'm sorry, yes. 19 What is your understanding of what services 20 Mrs. Clinton performed in connection with the Madison 21 preferred stock matter? 22 As far as I know, she had some meetings 136 1 with the principals. 2 Meaning Mr. McDougal? Q 3 Mr. McDougal. Α 4 0 Anyone else? 5 Α Possibly Mr. Latham. 6 He was the president of Madison? O 7 I don't know what his title was. She 8 reviewed some of Rick's work, I think. That's pretty 9 much what I know. 10 Do you know whether she ever spoke to 11 Ms. Schaffer, who was the securities commissioner? 12 I think there is a time entry that says 13 that she had a conversation with Ms. Schaffer, yes. 14 Did Mr. Massey indicate to you that 15 Ms. Clinton had spoken to Ms. Schaffer? 16 Α He did not indicate one way or the other, 17 no. 18 MR. ATKINS: Let me clarify things here. 19 Would you describe for them time entries on 20 what you are referring to. 21 THE WITNESS: On a bill shown to me by the 22 independent counsel.

137 BY MR. GIUFFRA: 1 2 Was that a bill that was produced by the O Rose Law Firm? 3 4 Α No. 5 This was -- this would be one of the copies 06 that had gone out, the first copy of the bill? 7 Ves Α 8 And that would have gone to the client --0 9 Α -- presumably, which would be Madison? 10 0 Correct. 11 Α You don't have a copy of that bill anymore? 12 0 13 Α I do not. 14 The only time you have seen that bill was 15 when it was shown to you by the independent counsel? 16 Α Yes. O Do you recall the date of the bill? 17 18 I believe it was -- I don't recall the 19 date, I'm sorry. It was a 1985 billing. What else do you recall being contained on 20 21 that bill? 22 I was shown a copy of it. There were a 138 couple of entries by Mrs. Clinton on a meeting with 1 Mr. McDougal and I think Mr. Latham, but I don't 2 recall. There was an entry on reviewing some papers 3 that Rick had drafted. There were entries by Rick on 4 5 a couple of conferences he had had with some of the internal attorneys on securities matters, and 6 7 research entries, you know, researching preferred 8 stock issues. What did it say about Mrs. Clinton? 9 I don't recall specifically. I was only 10 shown it for about a minute and a half. I mean, I do 11 recall the conference; I recall the entry on --12 13 Teleconference with --0 No, it just said conference. 14 Α 15 Conference with Beverly --16 It said telephone conference with Mrs. Schaffer, I believe. It just said conference 17 with Mr. McDougal, and I think it was Mr. Latham but

for Rick. Since this was an actual bill, did it contain the amount of time that was spent by

I am not sure. And then it had some entries on there

18

19 20

21

1 Mrs. Clinton with regard to that telephone call? 2 It did not contain the amount of time: it 3 contained a description of the activities. Which would be standard in one of your 4 O 5 hills? 6 It is one of the alternative billing Α 7 formats, ves. Let me show you a bill dated January 30, 8 1986 to Madison Guaranty. 9 MR. KRAVITZ: Do you have a Bates number? 10 11 MR. GIUFFRA: No. it doesn't have a Bates 12 number on it. 13 MR. KRAVITZ: Can I see that then? 14 Thanks. 15 BY MR. GIUFFRA: 16 This bill doesn't separate out who 17 performed various services; it just talks about conferences with and then lists a bunch of people. 18 19 How was the bill that you were shown by the 20 independent counsel different? 21 Well, I was shown two bills by the independent counsel. One was in this form and one 22 140 1 was in a slightly different form, where it had the 2 name of the attorney and the description of the time 3 performed -- of the work performed. 4 By each attorney? O By each attorney, yes. 5 Α Is that a standard form bill you would have 6 7 been sending out in the period 1985? Both of these would have been standard. 8 9 standard forms. 10 You would have sent the clients two types 11 of bills, one the general bill listing the types of 12 services the firm performed, and one specifically 13 listing the services performed by an individual 14 attorney? No, you had various billing formats 15 16 available, one was the narrative format which is what 17 we call the general description. One would have just the time entries of the clients. One would have time 18 19 entries plus the time spent. One would have time 20 entries plus time spent plus hourly rate. It 21 depended on the client and the billing attorney. 22 For example, here is an invoice dated April

```
24 -- can't tell the year.
 1.
2
            MS. FISHER: 1990.
 3
            BY MR. GIUFFRA:
4
             1990 to the FDIC?
 5
            MR. KRAVITZ: I need, for purposes of our
6
    record, if you are going to use documents without
7
    Bates stamps, I need you to mark them as exhibits.
8
    For example, we have several bills regarding Madison
9
    dated January 30, 1986. I think the record will be
10
    unclear as to which one you have been talking about
    unless we mark them as exhibits since they don't seem
11
12
    to have Bates numbers.
13
            MR. GIUFFRA: We will mark this first one
14
    as Exhibit 1 and we will mark this one --
15
            MR. KRAVITZ: Just so you are clear, the
    one you are marking as Exhibit 1 is the January 30,
16
    1986 bill we have been discussing?
17
18
            MR. GIUFFRA: Correct. Here is one we will
    mark Exhibit 2, April 24, 1990 concerning the Frost
19
20
    matter.
21
              (Clark Exhibits 1 and 2 identified.)
22
            BY MR. GIUFFRA:
                                                           142
 1
             Is that in the format of the first bill you
2
    were shown by the independent counsel in which
    individual attorney time is set forth with
3
4
    activities?
 5
        A Not in the exact form. The copy that I was
    shown would have the date, the attorney's name, and
6
7
    the description; it would not have hours or hourly
 8
    rate.
9
        0
             What was the second type of bill you saw,
10
```

vou were shown?

11 It was -- if you have Exhibit 1, it was 12 similar to this.

13

14

15

16

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18

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20 21

22

Meaning a standard form bill just listing the services without a breakout of the attorneys?

What we refer to as a narrative form.

What was contained in the narrative of that 0 second bill you were shown?

One of the bills had to do with the -- the preferred stock matter which was more the line item bill, and I believe the other one had to do with the broker-dealer transaction.

Was this a separate billing time period

			143
1	than the	first bill?	
2	A	My recollection, they were like a month	
3	apart.		
4	Q	And do you recall anything more about what	
5	was state	ed in the second bill?	
6	A	The narrative form?	
7	Q	Yes.	
8	Α	No, I sure don't.	
9	Q	And these were bills to Madison Guaranty?	
10	Α	Yes.	
11	Q	And the billing partner on both bills is	
12	Mrs. Cli	nton?	
13	Α	To my knowledge, yes.	
14	Q	Did the second bill indicate anything	
15	specifica	ally with regard to the type of work that	
16	Mrs. Cli	nton had performed?	
17	Α	I didn't get to read it that closely. The	
18	question	s were primarily, like yours, on the form.	
19	Q	Are you aware of a time in which strike	
20	that.		
21		Do you know on a lawyer by the name of	
22	Susan T.	homases?	
			1 4 4
			144
1	Α	I know her through the newspaper.	144
2	Q	Do you have any understanding if Susan	
2 3	Q	Do you have any understanding if Susan es performed any work for the Rose Law Firm?	
2 3 4	Q	Do you have any understanding if Susan	
2 3 4 5	Q Thomas	Do you have any understanding if Susan es performed any work for the Rose Law Firm? For the Rose Firm? Correct.	
2 3 4 5 6	Q Thomase A	Do you have any understanding if Susan es performed any work for the Rose Law Firm? For the Rose Firm? Correct. I don't believe she did, no.	
2 3 4 5 6 7	Q Thomaso A Q A Q	Do you have any understanding if Susan es performed any work for the Rose Law Firm? For the Rose Firm? Correct. I don't believe she did, no. You have no knowledge as to whether she	
2 3 4 5 6 7 8	Q Thomase A Q A Q might ha	Do you have any understanding if Susan es performed any work for the Rose Law Firm? For the Rose Firm? Correct. I don't believe she did, no. You have no knowledge as to whether she ave worked on any accounting practices for the	
2 3 4 5 6 7 8	Q Thomaso A Q A Q	Do you have any understanding if Susan es performed any work for the Rose Law Firm? For the Rose Firm? Correct. I don't believe she did, no. You have no knowledge as to whether she ave worked on any accounting practices for the	
2 3 4 5 6 7 8 9	Q Thomase A Q A Q might ha	Do you have any understanding if Susan es performed any work for the Rose Law Firm? For the Rose Firm? Correct. I don't believe she did, no. You have no knowledge as to whether she ave worked on any accounting practices for the rm? No.	
2 3 4 5 6 7 8 9	Q Thomase A Q A Q might ha Rose Fin A Q	Do you have any understanding if Susan es performed any work for the Rose Law Firm? For the Rose Firm? Correct. I don't believe she did, no. You have no knowledge as to whether she ave worked on any accounting practices for the rm? No. Let me show you, this is testimony of	
2 3 4 5 6 7 8 9 10 11 11	Q Thomase A Q A Q might ha Rose Fin A Q Mrs. Th	Do you have any understanding if Susan es performed any work for the Rose Law Firm? For the Rose Firm? Correct. I don't believe she did, no. You have no knowledge as to whether she ave worked on any accounting practices for the rm? No. Let me show you, this is testimony of omases dated August 8, 1995.	
2 3 4 5 6 7 8 9 110 111 112	Q Thomass A Q A Q might ha Rose Fin A Q Mrs. Th	Do you have any understanding if Susan es performed any work for the Rose Law Firm? For the Rose Firm? Correct. I don't believe she did, no. You have no knowledge as to whether she ave worked on any accounting practices for the rm? No. Let me show you, this is testimony of omases dated August 8, 1995. MR. ATKINS: What was the date?	
2 3 4 5 6 7 8 9 110 111 112 113	Q Thomass A Q A Q might ha Rose Fin A Q Mrs. Th	Do you have any understanding if Susan es performed any work for the Rose Law Firm? For the Rose Firm? Correct. I don't believe she did, no. You have no knowledge as to whether she ave worked on any accounting practices for the rm? No. Let me show you, this is testimony of omases dated August 8, 1995. MR. ATKINS: What was the date? MR. GIUFFRA: August 8, 1995.	
2 3 4 5 6 7 8 9 110 111 112 113 114	Q Thomass A Q A Q might ha Rose Fin A Q Mrs. Th	Do you have any understanding if Susan es performed any work for the Rose Law Firm? For the Rose Firm? Correct. I don't believe she did, no. You have no knowledge as to whether she ave worked on any accounting practices for the rm? No. Let me show you, this is testimony of omases dated August 8, 1995. MR. ATKINS: What was the date? MR. GIUFFRA: August 8, 1995. BY MR. GIUFFRA:	
2 3 4 5 6 7 8 9 110 111 112 113 114 115	Q Thomase A Q A Q might ha Rose Fin A Q Mrs. Th	Do you have any understanding if Susan es performed any work for the Rose Law Firm? For the Rose Firm? Correct. I don't believe she did, no. You have no knowledge as to whether she ave worked on any accounting practices for the rm? No. Let me show you, this is testimony of omases dated August 8, 1995. MR. ATKINS: What was the date? MR. GIUFFRA: August 8, 1995. BY MR. GIUFFRA: I direct your attention to page 15 of her	
2 3 4 5 6 7 8 9 110 111 112 113 114 115 116	Q Thomase A Q A Q might ha Rose Fin A Q Mrs. Th	Do you have any understanding if Susan es performed any work for the Rose Law Firm? For the Rose Firm? Correct. I don't believe she did, no. You have no knowledge as to whether she ave worked on any accounting practices for the rm? No. Let me show you, this is testimony of omases dated August 8, 1995. MR. ATKINS: What was the date? MR. GIUFFRA: August 8, 1995. BY MR. GIUFFRA: I direct your attention to page 15 of her my.	
2 3 4 5 6 7 8 9 110 111 112 113 114 115 116 117	Q Thomase A Q A Q might ha Rose Fin A Q Mrs. Th	Do you have any understanding if Susan es performed any work for the Rose Law Firm? For the Rose Firm? Correct. I don't believe she did, no. You have no knowledge as to whether she ave worked on any accounting practices for the rm? No. Let me show you, this is testimony of omases dated August 8, 1995. MR. ATKINS: What was the date? MR. GIUFFRA: August 8, 1995. BY MR. GIUFFRA: I direct your attention to page 15 of her ay. Okay.	
2 3 4 5 6 7 8 9 10 111 112 113 114 115 116 117 118	Q Thomase A Q A Q might ha Rose Fin A Q Mrs. Th	Do you have any understanding if Susan es performed any work for the Rose Law Firm? For the Rose Firm? Correct. I don't believe she did, no. You have no knowledge as to whether she ave worked on any accounting practices for the rm? No. Let me show you, this is testimony of omases dated August 8, 1995. MR. ATKINS: What was the date? MR. GIUFFRA: August 8, 1995. BY MR. GIUFFRA: I direct your attention to page 15 of her ay. Okay. You have no knowledge of any work	
2 3 4 5 6 7 8 9 110 111 112 113 114 115 116 117 118 119 220	Q Thomass A Q A Q might ha Rose Fin A Q Mrs. Th	Do you have any understanding if Susan es performed any work for the Rose Law Firm? For the Rose Firm? Correct. I don't believe she did, no. You have no knowledge as to whether she ave worked on any accounting practices for the rm? No. Let me show you, this is testimony of omases dated August 8, 1995. MR. ATKINS: What was the date? MR. GIUFFRA: August 8, 1995. BY MR. GIUFFRA: I direct your attention to page 15 of her lay. Okay. You have no knowledge of any work omases might have performed for Rose in	
2 3 4 5 6 7 8 9 10 111 112 113 114 115 116 117 118	Q Thomass A Q A Q might ha Rose Fin A Q Mrs. Th	Do you have any understanding if Susan es performed any work for the Rose Law Firm? For the Rose Firm? Correct. I don't believe she did, no. You have no knowledge as to whether she ave worked on any accounting practices for the rm? No. Let me show you, this is testimony of omases dated August 8, 1995. MR. ATKINS: What was the date? MR. GIUFFRA: August 8, 1995. BY MR. GIUFFRA: I direct your attention to page 15 of her ay. Okay. You have no knowledge of any work	

	14	45
1	Firm for state agencies?	
2	What is your understanding with regard to	
3	how Rose was retained by Madison Guaranty Savings &	
4	Loan?	
5	A It's my understanding that Rick and another	
6	Rose attorney had lunch with John Latham to discuss	
7	that work. It is my understanding that Mrs. Clinton	
_ 8	had some relationship I don't know what it is	
9	or at least knew Mr. McDougal. I know we received	
10	the work. I've asked Rick about it. Rick says, you	
11	know, what was the precipitating factor, he doesn't	
12	know.	
13	I mean, I guess McDougal and Latham would	
14	know actually why they called us finally, but we	
15	don't know exactly what may have precipitated the	
16	work.	
17	Q Did Mr. Massey indicate to you he had	
18	brought in Madison as a client to the Rose Firm?	
19	A No.	
20	Q What did he tell you with regard to whether	
21	he brought Madison in as a client to the Rose Firm?	
22	A He said he was definitely trying to obtain	46
1	Madison's work. He had lunch with Mr. Latham, and	+0
2	that eventually started us doing work, but he doesn't	
3	know whether it was his actions, or some actions of	
4	Mrs. Clinton, or some third party's action as a	
5	result of the work being done.	
6	Q Did he indicate Mrs. Clinton had a role in	
7	bringing in Madison as a client to the Rose Firm?	
8	A I don't think Rick has any knowledge as to	
9	whether she had any action or not.	
10	Q Now, you are aware Mrs. Clinton has made	
11	statements, some sworn strike that.	
12	Are you aware that Mrs. Clinton has made	
13	some statements, some of which are sworn, in which	
14	she says Mr. Massey brought Madison in as a client to	
15	the Rose Firm?	
16	A No.	
17	Q Do you have have you ever heard any	
18	public statements by Mrs. Clinton in which she	
19	indicated Mr. Massey brought Madison in as a client	

21 A No.

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22 Q You have

to the Rose Firm?

Q You have no understanding as to what

Mrs. Clinton's version of events are with regard to 1 2 the bringing in of Madison as a client to the Rose Firm? 3

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Α The only understanding -- I did watch one of Mr. Hubbell's testimonies before the Senate, where he recounted or tried to recount some testimony that Hillary had given or statement that she had made or something, but that's -- I didn't watch Hillary's press conference.

You have never talked to Mr. Massey about whether Mrs. Clinton's version of events with regard to retention of the Rose Firm was accurate?

A I have talked to Mr. Massey on several occasions about the way the Madison work was obtained. I don't think, neither Rick nor I -- I am not sure Rick watched the press conference either. I am not sure we have ever seen a written statement that we know exactly what Mrs. Clinton's version of the facts are.

Has he ever indicated any doubt he has with regard to her version of the events with regard to the retention of Rose?

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1 Α No. 2

Have you ever discussed with Mr. Massey anything having to do with the fact that he was only, you know, eight months out of law school when this client came into the firm?

Yes.

And what explanation does he give for the kind of claim that he brought the client in?

He gives no explanation other than the fact that -- I mean, he was -- he had the lunch, he tried to get the work, and eventually some work came in. He just doesn't -- neither Mr. Latham -- I am not sure Rick ever met Mr. McDougal, but he did know Mr. Latham.

What was the nature of Mr. Massey's relationship with Mr. Latham?

David Knight, who was one of our securities partners, taught a class in securities law at the University of Arkansas at Little Rock. Rick substituted somewhat for David on those occasions. And Mr. Latham was a student, audited that class at

some point, and that's how they got to know each

149 other. And David and Rick were the two that 1 2 called -- I don't know who called whom first. I assumed they called John Latham first and said let's 3 have lunch. 4 5 But in 1985, Mr. Massey was not an 0 6 experienced securities lawyer, was he? 7 A He was a first or second year associate. He was not an experienced banker? 8 0 9 A Mrs. Clinton was a litigator? 10 0 11 A Yes. Did she also do any sort of what would be 12 13 described as corporate work, in the securities banking kind of corporate work? 14 I mean, I'm fairly certain she did some 15 16 litigation on those type issues. I don't know -- I just don't know if she did any transactional work. 17 Drafting agreements, reviewing drafts? 18 I don't know. 19 Has Mr. Massey ever indicated to you the 20 21 extent to which Mrs. Clinton supervised his work on the Madison matter during '85 and '86? 22 150 No, we have not discussed that in depth. 1 Has he said anything to you about the 2 extent to which Mrs. Clinton supervised his work? 3 He's acknowledged that he sent copies of 4 correspondence to the Arkansas securities department 5 in filing, and he sent copies of those to 6 7 Mrs. Clinton. 8 O Did he indicate to you whether it was his practice to send copies of all documents that he 9 10 prepared to Mrs. Clinton? No. he has not indicated that to me. 11 Would that be normal practice for a young 12 13 associate at the Rose Firm to send copies of, for example, correspondence to the billing partner on a 14 15 matter? 16 No, not necessarily. Α Do you have any of sort of -- strike that. 17 0 Did you have a system in 1985 and 1986 for 18 routing documents with regard to a matter to the 19 lawyers who worked on that matter? 20 21 No, no system.

So, for example, if I sent a letter to the

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1 Arkansas Securities Commission, I send a copy to the 2 other people who might work on that matter?

A No.

Q It will be an ad hoc judgment by the person who wrote the letter?

A Correct.

Q Now, what is your understanding of the nature of the billing arrangement that Madison had with the Rose Law Firm in '85/86?

A Based upon the records that we have been able to discover, it looks like at some point there was an agreement that we would receive a retainer of \$2000 a month. At some time, approximately July of 1986, that arrangement was terminated, at which time the monthly -- the July check was returned along with approximately \$4600 which had been received in the form of retainers but never had been earned in the form of work.

Q So this was not a retainer agreement whereby you would receive the retainer even if you did not perform any work?

A That's right, the retainer went in the

1 trust account.

Q And it would be --

A Taken only --

Q -- taken only as work was done?

A That's right.

Q What do you know about the circumstances under which the Rose Firm terminated this relationship with Madison?

A There was some desire at that point to increase the amount of work that we'd done, for -- at that point it was FSLIC. We had handled a case for FSLIC, referred to guarantee on a very successful basis with FSLIC. And we had already heard from the agency, if we had any chance to increase our work, we probably wanted to discontinue any general representation of savings and loans.

We had never represented any savings and loans generally, we had only done isolated work for a couple of savings and loans. We were never principal outside counsel for any S&Ls. And so I think there was some discussions then among some of the partners that we probably should discontinue any ongoing

153 1 relationships with S&Ls. And that's what 2 precipitated the return of that fund. 3 Q Was this a discussion at partnership 4 meetings? 5 No, I think it was primarily between 6 Mrs. Clinton and the people who were doing the work 7 for the government. 8 Q And do you have any further understanding 9 of the nature of those discussions between Mrs. Clinton and people who wanted to do the 10 11 government work? 12 No, just that we were concerned that being 13 on a retainer with the savings and loan could 14 possibly prevent us from accepting additional work 15 from FSLIC, and --16 O Do you recall --17 A -- since we were only doing isolated 18 matters for them in any event, we thought we should 19 discontinue that. 20 Q Do you recall any discussion of the fact 21 that Mr. McDougal had been removed as president -- as 22 chairman of the -- strike that. 154 1 Do you recall any discussion of the fact 2 that Mr. McDougal had been removed as president of 3 Madison Financial Corporation in connection with the decision to terminate the relationship with 4 5 Madison --6 A Not at that time. I think the partners 7 that were doing the government work had no knowledge 8 of that at that point. 9 Q Did you subsequently learn that that was a 10 factor in the firm's decision to terminate its 11 relationship with Madison? 12 No. I have learned it was not a factor. 13 So it is your understanding that the fact 14 that Mr. McDougal had been removed as president of Madison Financial was not a factor in the firm's 15 16 decision to terminate its relationship with Madison? 17 That's correct. 18 What's the basis for your understanding that the removal of Mr. McDougal as president of 19

Madison Financial did not have -- was not a factor in

A On the basis of the discussions with the

the firm's retainer relationship with Madison?

20 21

155 people who were involved, they just said they didn't 1 2 know about it. O The discussions with regard to terminating 3 the retainer relationship with Madison, were those 4 5 initiated by Mrs. Clinton, or by the lawyers who 6 wanted to do more FSLIC work? 7 A I do not know. 8 O I show you a document, RS 775, to --9 MS. FISHER: Actually they are not in 10 sequence. 11 BY MR. GIUFFRA: The next page is RS 2633, the next page RS 12 2634, 2635, 66, 67, 68, 69, 70. Have you ever seen 13 that document before? 14 15 Yes Α 16 What is this document? 017 MR. ATKINS: Bob, I think it is actually 18 several documents. 19 BY MR. GIUFFRA: 20 Several documents, ves. All right, RS 000775 is a copy of a green 21 22 bar from our general ledger trust accounting system. 156 1 002363 is a billed audit trail for Madison Guaranty, 2 as is 2364, 2365. 2366 is a copy of a page from our 3 cash receipts journal. What's a cash receipts journal? 4 5 That's just an accounting document that 6 actually shows the recording of cash received. 7 So in this particular document, it says 8 2000 with a minus, what does that indicate to you, 9 next to Madison Guaranty? 10 Right, that means that -- well, that means 11 that -- I think that's what this means, that this is on the firm's -- no, excuse me, this is the trust 12 13 accounting. So that means there was probably a check 14 written out of our trust account to the firm in the amount of \$2000 15 The Worthen, W-o-r-t-h-e-n? 16 Q 17 That's where we maintain our trust account. Α 18 O You would have written a check from the

trust account to the firm, and then there would be a

negative of the same amount of money as the initial

22 Α Correct.

check?

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Q Let me turn your attention to 2364. It says "time summary by attorney," and then it has "Hillary Clinton," and it has no hours but a fee credit of 500. What does that indicate to you?

A Nothing. I just don't know what it means.

Q So that could reflect just the fact that there was a fee credit to her of \$500, it could also reflect that she did zero work but got a fee credit of \$500 because she was the billing partner?

A Well, it could reflect -- it could reflect both of those things or many other alternatives.

Q What are some of the other alternatives?

A Again, this is just a bill audit trail which is a document that would have been printed sometime after the bill was rendered. So it could

16 have been that she may have had one hours of work, no

17 hours of work, or 10 hours of work on the matter

18 that, when the bill was rendered, would have been

19 purged from the system. Or it could be that she did

20 work and didn't record hours or -- I mean, there are

21 just various alternatives. The bill audit trail

22 didn't tell a whole lot unfortunately.

Q What do you know about the circumstances about which the Rose Firm managed to retain copies of these records?

A It was -- it's just -- whenever these documents went over to remote -- as I say, they didn't go over in any kind of organized fashion.

Some of the files were microfilmed, some of them were not; some were maintained, some were not.

If you asked me to go find the billing records of a client we did work for in '85, '86, there is probably a 90 percent chance we wouldn't find any but there is a 10 percent chance there would be an isolated document here or there. These were primarily discovered going through hours and hours of microfilm, just seeing, as I say, a document here and there.

Q So that might explain why, for example, on the first page, document RS 775, we only have the entry starting on February 18, 1985 just because you don't have the other stuff?

A That's correct, and we've looked, for example, for '85.

		159
1	Q Do you know when the first money was paid	
2	by Madison to Rose, first retainer?	
3	A No.	
4	Q Were those checks made to the Rose Law	
5	Firm, or were they made to the billing partner?	
6	A Well, speculation, they would have been	
7	made either to the Rose Law Firm, or possibly to the	
8	Rose Law Firm trust account.	
9	Q But not to the partner?	
10	A No, not to the partner.	
11	Q You just don't know how they were written?	
12	A No, we don't have the checks.	
13	Q Let's turn to page RS 775. This indicates	
14	a payment of 2 on 2/18/86 of \$2000?	
15	A Yes.	
16	Q And then 4/10/86, another 2000; and	
17	4/30/86, another 2000. Meaning the balance in the	
18	trust account is 6000?	
19	A Correct.	
20	Q And then you start doing work on 5/27/86,	
21	as Rose Law Firm, a thousand dollars, to 11.3?	
00	A Well, we start submitting bills, we could	
22	A Well, we start submitting bills, we could	
		160
1	have been doing work back here and just not billing	160
1 2	have been doing work back here and just not billing for it.	160
1 2 3	have been doing work back here and just not billing for it. Q Okay, the next entry, 6/9/86, again more	160
1 2 3 4	have been doing work back here and just not billing for it. Q Okay, the next entry, 6/9/86, again more this looks like another \$2000 from Madison Guaranty.	160
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producing it. Again, we were very cautious and very 1 careful about, once we received a subpoena, we didn't 2 3 alter the document. So if it had somebody's 4 handwriting on it, we submitted it with the handwriting, so this document -- this particular 5 document I think came from microfilm. 6 7 O Have you tried to determine whether the 8 Worthen Bank might have records that might help us in trying to figure out the billing of Madison by Rose? 9 We have not, no. 10 O Now, would the amount of a fee that's 11 listed on a fee credit report correspond with the 12 13 invoice fee normally? A The aggregate fee credits received by all 14 attorneys should equal the amount of the fee. 15 O The invoice fee? 16 The invoice fee, generally speaking. There 17 18 can be exceptions to that. Are you aware of any exceptions with regard 19 to the firm representation of Madison Guaranty?

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the bills.

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Now, it has obviously become a big issue as 1 2 to the document retention by Rose with regard to its representation of Madison. Did there come a time 3 when you directed any sort of investigation to 4 5 determine whether there were missing Madison files, client files at Rose? 6 7 We have conducted an exhaustive search for

A No, not especially, since I haven't seen

8 all of our documents relating to Madison. Because of the dates of these files, it did not surprise us that 9 we couldn't find everything that might have been 10 11 there to begin with. It is hard to say that we conducted an investigation as to what might have been 12 taken. We know what's there, we have a general idea 13 of what would have been there at some point in the 14 15 history, and therefore we know somewhat what's 16 missing.

What do you believe is missing from the 17 18 Madison files?

Well, for example, we know that Mrs. Clinton maintained some files that appeared to have been destroyed in 1988. That's reflected on the schedule that was produced today.

163 Let's look at that document. This is RSS 1 0 2 2371 and 2372? 3 A Right. 4 When did you first learn of this document? 0 5 This was one of the early things that we 6 discovered. I mean, we tried to make an exhaustive 7 list, search for all of our documents. We knew 8 anything this old would be in remote storage so we 9 made a very exhaustive search for any records in remote storage, including the reviewing of each 10 attorney's remote storage file list. 11 12 Now, since Mrs. Clinton was no longer 13 there, we reviewed Mrs. Clinton's remote storage 14 list, a portion of which is produced as RS 002372. 15 And what does -- these remote storage file 16 lists, are these maintained in perpetuity or do they 17 have some sort of a date of --Each individual attorney maintains their 18 own list, so it is strictly up to them whether they 19 20 maintain them in perpetuity or don't. 21 How were you able to find Mrs. Clinton's list? 22 164 She had apparently kept hers and they were 1 2 still in the files that we had. 3 Her files? 0 4 No, not her files, stuff she had left with 5 her former secretary who had left us too, but we had 6 sort of a set of documents that were still there in 7 that material. 8 Mrs. Clinton did take some files with her 9 when she moved to Washington from the firm? 10 Yes. Let me say, these particular 11 documents. 12 What documents did she take with her, say 13 prior to January 20, 1993, that you are aware of? 14 Just personal files. No client files that 15 we're aware of. 16 And you've attempted to ascertain whether 17 she removed any client files? 18 Not with her. We have had no conversation with Mrs. Clinton. 19

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About her files?

Who were the conversations with?

Yes.

165 1 We've talked to the staff people, we've 2 talked to the remote --3 O Which staff people? 4 Mrs. Clinton's secretary went with her, so 5 just other secretaries in the area that might have 6 any knowledge of any files that were taken. They had 7 no knowledge. We talked to the remote storage 8 people. They had no knowledge of any files being 9 taken. 10 0 Mrs. Clinton's secretary, what was her 11 name? 12 Millie Austin. Α 13 Has anybody contacted her from Rose to find 0 out what files were taken by Mrs. Clinton? 14 15 I don't know of any Rose lawyers that have 16 talked to Millie. 17 What does Millie do now? 0 18 Α She works in the White House somewhere. 19 How long was she Mrs. Clinton's personal 0 20 secretary? 21 Α Probably two or three years. 22 0 Did anyone contact Carolyn Huber and try to 166 find out about any files Mrs. Clinton may have taken 1 2 with her when she left the firm? 3 Α Not that I know of. 4 What's the basis for your understanding 5 that it was only personal files that Mrs. Clinton 6 removed? Just that. I have no information from 7 Α 8 anybody inside the firm or anybody else we've talked to, which is basically the people inside the firm, 9 10 that anything other than personal files were taken. 11 And that's just based on people who were the secretaries in the area where Mrs. Clinton 12 13 worked? 14 That's correct. Α 15 O Based on their recollection of what 16 documents --17 Α And the people in remote storage. "Remote storage" meaning they were the 18 people who were contacted by Mrs. Clinton's secretary 19 20 to remove certain files? 21 They would have to have known about any

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remote storage files being retrieved.

167 If such a file is retrieved is a record 2 kept of such files? 3 No, sometimes it is; sometimes it is not. 4 It is normally maintained on the individual 5 attorney's records. 6 Have you looked at Mrs. Clinton's records 7 to see whether any files were removed from remote 8 storage? 9 Yes A 10 What have you determined with regard to whether files were removed by Mrs. Clinton from 11 remote storage prior to November 20, 1993? 12 13 I don't recall any files being removed on 14 the Madison/Whitewater matter. Any removed related to any client matters? 15 16 A Our remote storage record is less than 17 precise. I think if you check the record, I am sure 18 you will see a date on this document, maybe where a 19 file was checked out, and it may have -- may or may 20 not have been checked back in. You can't rely on 21 those records too well, they are just manual 22 records. 168 1 These particular records -- let me clarify 2 what I said earlier -- were in our files in remote. 3 In 1988, according to that memo, you will see we made a very concerted effort to clean up a difficult 4 5 problem we had in remote storage. So we sent a memo 6 like that to all the partners -- all the attorneys 7 and asked them to tell us what we could do to clean 8 up remote storage. And those were sent back to 9 remote, and that's part of what was maintained in 10 remote. 11 (Discussion off the record.) 12 BY MR. GIUFFRA: 13 Have you tried to ascertain -- have you 14 looked at the remote storage list for Mr. Hubbell? 15 Α 16 And did he remove any files prior to coming O 17 to Washington? 18 I do not recall any, no. A 19 Did you look at the list for Mr. Foster? 0 20

Did he remove any files before coming to

O 22 Washington?

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Yes.

1 I don't recall. I mean -- I am not trying 2 to dodge you. I looked at these probably two years ago, and I just -- I think I'd remember had there 3 been any notation in there that there had been files 4 5 removed. Do you have any understanding as to what 6 0 files Mrs. Clinton may have removed, if there were 7 any, regarding client matters? 8 I have no information that she removed any 9 10 client files. And it would have been improper to remove 11 12 client files? Yes. Well, unless she was the client. 13 Do you know whether Mrs. Clinton removed 14 any files from remote storage in 1992? 15 I don't have any information that she did. 16 MR. KRAVITZ: Can I ask just --17 MR. GIUFFRA: Go ahead. 18 MR. KRAVITZ: Just for clarification, one 19 of your questions was, it would have been improper if 20 Mrs. Clinton had removed client files; unless she was 21 22 the client, I think the answer was. 170 1 THE WITNESS: Right. MR. KRAVITZ: I am not sure -- maybe the 2 record should be clarified as to what the witness 3 meant by "improper," or interpreted the question to 4 mean by "improper." 5 THE WITNESS: If -- I only meant to say 6 that, unless any files that we maintained for private 7 clients would have been the property of the firm, and 8 certainly there were reasonable situations where you 9 could take them out of the building for legitimate 10 reasons, but to take them out and not give them back 11 12 would not be proper. 13

BY MR. GIUFFRA:

You indicated when you looked in the Madison file there were documents that were missing. MR. ATKINS: I don't think he said that.

BY MR. GIUFFRA:

Q No. Documents you thought should have been there that were not in the files?

No Α

MR. ATKINS: I don't think he said that 21

22 either.

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BY MR. GIUFFRA:

Q When you went back -- there came a time when you looked and gathered the Madison files that were at the firm; correct?

A Correct.

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Q In looking at those files and discussing the status of those files with, for example, Mr. Massey and other lawyers still at the firm, did you come to any judgment that there were files that were missing from the firm's Madison files?

A We had a --

MR. ATKINS: Let me interrupt. I think what maybe confusing you, Bob, is he was saying that he knew that there were files that, at one time, existed that he didn't find, as evidenced by the document in your hand that we have been discussing.

THE WITNESS: Plus, you changed from documents to files.

BY MR. GIUFFRA:

Q We will make it documents. Which is the proper way, is it normally files or documents? Files would be missing?

A Well, I searched for files, and then when we found files, I went through the files to look at what was in the files.

MR. KRAVITZ: Bob, it might make sense -- BY MR. GIUFFRA:

Q Why don't you take a look at this document?
MR. KRAVITZ: It might make sense to let
him testify about that. He has been trying to for a
while.

THE WITNESS: What this meant to me when I saw it?

MR. ATKINS: This is document numbered RS 2371.

THE WITNESS: 2371 and 2372. In the course of searching for Madison documents, we tried to find what may have been at remote at one time and was no longer there. This was evidence to me that, at one point, we had in remote storage these four files; they actually have remote storage numbers assigned to them. And that during the attempted clean up of our remote storage --

BY MR. GIUFFRA:

794 173 1 In 1988? O 2 In 1988. Mrs. Clinton designated that 3 these files be destroyed. 4 And what files are designated to be 5 destroyed? 6 Madison Guaranty Babcock, Madison Guaranty 7 ward option, Madison Guaranty IDC, and Madison 8 Guaranty matters 1, 2, 3, 4. 9 0 What are matters 1, 2, 3 and 4, if you 10 know? 11 I don't -- matters 1, 2, 3 and 4 would have Α 12 been the subnumbers. It probably was -- we could 13 find -- by looking at the bill, my guess is Madison 14 matter 1 was probably a general account. And 2 was probably preferred stock, and 3 was. But that's just 15 16 speculation. 17 MR. GIUFFRA: Do you have the bill? 18 MR. KRAVITZ: I have one bill of January 19 30, 1986 which indicates that matter 1 is the stock 20 offering. But we could probably piece this all together with other bills. 21 22 MR. GIUFFRA: Off the record. 174 1 (Discussion off the record.) 2 BY MR. GIUFFRA: 3 You don't know of your own, as you sit here today, what matters 1, 2, 3 and 4 are? 4 5 Α I do not. 6 0 We have to look through the billing records 7 and try to figure that out ourselves; correct? 8 Α Correct. 9 This number 98262, do you know what that Q 10 is? That's probably the client number. 11 A

The number A 873.4 1, 2, 3, that's the 12 13 remote storage? 14 Α Yes. 15 Do you know what this indication to the right of the D is that has a check? Does that mean 16 17 it was done, the documents were destroyed? 18 Probably, but I don't know. 19 Where it says .1, .2, .3, .4, to you that

indicates file, not document? 20 21

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That's correct, files.

0 Now, did you check to see whether

175 1 Mr. Massey has a similar -- strike that. 2 What happened to Mr. Massey's files on 3 Madison? 4 A They were apparently removed from the 5 firm 6 When were they removed from the firm? 0 7 Α I don't know. I believe -- I believe that the files that were returned to us by David Kendall 8 9 in November were Rick Massey's files. What's the basis of that belief? 10 0 He looked at them and thinks they were his 11 Α 12 files. 13 Does he know -- did anyone ask him if they could remove his files from the firm? 14 15 Α No 16 O He doesn't know how the files were removed 17 from the firm? 18 Α No Must be a source of some discomfort for 19 0 20 Mr. Massey to find why his files left the firm? 21 Α For all of us. 22 He doesn't have any knowledge though as to 0 176 how it happened, who do it? 1 2 Not that I know of, no. 3 Was there anybody else in the firm who 0 4 maybe would have had Madison files other than 5 Mr. Massey and Mrs. Clinton? 6 Yes. There were a couple of other matters that we worked on that neither -- that Rick did not 7 8 work on. 9 So Mr. Thrash, for example, may have had 0 files? 10 11 Yes. We were able to find a couple of 12 other files that we had produced, or actually isolated documents; I am not sure if they actually 13 14 found any files. 15 When Mr. Massey -- when the firm received the Madison files back from Mr. Kendall, did 16 17 Mr. Massey review those files to ascertain -- in an 18 attempt to ascertain whether or not there were any 19 documents missing from the files?

Has Mr. Massey ever indicated to you

whether any documents were missing from the files

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Α

No.

that were returned by Kendall's office? 1 2 Rick reviewed the photocopies of the files that we retained when we produced them to the 3 4 independent counsel. And my recollection is he said, this looks like what would have been in my files. He 5 never stated -- it would have been unlikely for 6 billing records to have been in those files. 7 Since he was not the billing partner? 8 9 Α Since he was not the billing partner. Just a few more questions before we have to 10 0 11 take this break. 12 Now, do you have any understanding as to 13 whether Mr. Hubbell had any billing records in his 14 possession during 1992 related to Madison? I went home for lunch and saw his 15 16 testimony, the last time, saying that he recalls seeing billing records in 1992 inside our firm. And 17 thus, we should still have them. 18 And these would be records from '85 and 19 20 '86? 21 He just said Madison billings records, Α 22 so --178 Do you have any understanding -- strike 1 0 2 that. Do you have any knowledge with regard to 3 4 where Mr. Hubbell may have seen those records? 5 No. Α 6 Whether he took those records out of the 0 7 firm? 8 Α No. Have you attempted to find out whether 9 10 Mr. Hubbell did in fact see billing records from Madison during 1992? 11 Only to the extent of no one in our 12 building has knowledge -- no one currently in the 13 firm has knowledge of Mr. Hubbell reviewing those 14 15 billing records. Let me ask you, on the Kendall letter 16 17 bearing RS 381, there are some numbers that are listed before each file. For example, Madison 18 Guaranty Limited Partnership, it says A 3530.1 and 19 20 then A 3530.2, Madison Guaranty net worth. And then the next one is A 53, guaranteed preferred stock 21

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offering.

179 1 Does the A number indicate to you that 2 that's one of the file numbers? 3 That indicates that that file at one time 4 was in remote storage. 5 But the numbers are different than the ones 6 on Mrs. Clinton's index? 7 Α Yes. 8 Do you know why they are different? 0 These were Rick's files and those were. I 9 10 assume, Mrs. Clinton's filings. 11 O Does the number -- the fact that Mrs. Clinton's are a later number indicate she put 12 13 them in remote storage at a later time that than 14 Mr. Massey did? A I don't know. 15 16 Q If his are 3530, that were done earlier than 8734? 17 18 A I think it is more likely that indicates 19 she sent a number of more files to remote. She had 20 been in the firm for 15 years, he had been there for one. I think it was more chronological as far as 21 individual attorneys than it was --22 180 1 So why do the bills start with an A? 2 Α I have never seen a file that didn't start 3 with an A. 4 But what I don't understand, does this mean 5 that Mr. Massey has 3530 different matters that he 6 worked on --7 A No. 8 -- and she has 89,000 matters? 9 I have no idea how they index those Α 10 numbers. 11 That's the answer to that question then. 12 MR. GIUFFRA: Can we take a break now. We 13 will be back in 15 minutes. I want to apologize. 14 There is nothing we can do about it. 15 MR. KRAVITZ: 15 minutes? MR. GIUFFRA: A half-hour. I'm sorry. 16 17 (Recess.) **EXAMINATION** 18 19 BY MS. FISHER: 20 Mr. Clark, going back to this document, RS 21 2372, that was produced this morning by your

counsel -- and this may have been asked before the

- 1 break and I just don't recall -- were there any other
- 2 Madison Guaranty files or any other files related to
- 3 Madison on this list or any other list that you
- 4 found?
- 5 A No.
- 6 Q And did you check the lists for Mr. Massey,
- 7 Mr. Thrash or Mr. Thomas to see if they had sent any
- 8 Madison Guaranty files to remote storage?
- 9 A Yes.
- 10 Q Did you find any?
- 11 A For Mr. Massey, yes, he had some remote;
- 12 not for Mr. Thomas or Mr. Thrash.
- 13 Q Do you recall what files were remote for
- 14 Mr. Massey?
- 15 A I don't recall. I think it was just the
- 16 ones that had been -- that we received back from
- 17 Mr. Kendall, but I would have to confirm that for
- 18 you.

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- 19 Q Is it your recollection that they were
- 20 copies of the original files you got back from
- 21 Mr. Kendall, or the same files you got back from
- 22 Mr. Kendall?

- 1 A The files that we received back from
- 2 Mr. Kendall appeared to be original files. They were
- 3 certainly original file folders, and of course, most
- 4 of what you would see in a file would be photocopies
- 5 of stuff, but it looked like original files.
- Q Did those files match the files that were in remote storage for Mr. Massey?
 - A I don't think I checked those numbers.
- 9 Q Let me ask you this, were the files still 10 in existence at remote storage or was it just a list
- that said they had been destroyed?
- 12 A No, Rick had no files in remote -- we could
- 13 not find any of Rick's files in remote storage.
- Q So it was just a list that -- did it have an indication that those files had been destroyed?
- 16 A I don't believe -- no, they didn't. And I
- will have to check even -- again, that was anindividual attorney, I recall Rick checking saying
- 19 yes, he had some files in remote.
- I am not sure I even looked at his list or
- whether he kept a list or computer record or what, I
- 22 don't know. But he indicated -- he will say that he

1 did not order any files destroyed.

Do you have any knowledge that you may have received from Mr. Massey or anyone else within the Rose Law Firm as to how Mr. Massey's files were removed from the Rose Law Firm sometime prior to the time they were returned by Mr. Kendall?

No.

0 Or who may have been involved in that removal?

Α 10 No.

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0 I believe you testified earlier that the

12 Rose Law Firm received its first subpoena from the grand jury sometime in January of 1994. And I just 13 14 wanted to see if maybe this would refresh your 15 recollection that it was on January 13 when you

received a grand jury subpoena?

17 Α Yes.

18 Do you recall, was this the first grand 19 jury subpoena that you had received?

> Yes. Α

And did you have notice that this subpoena was on its way prior to receiving it on January 13?

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1 Α No.

2 So this was the first that the Rose Law 3 Firm had any knowledge that a subpoena was coming 4

from the grand jury?

That's correct.

MR. KRAVITZ: Alice, can you identify what it was that you used to refresh the witness's recollection?

MS. FISHER: Absolutely. Document RS 001050200152, and it is a letter from Michael Buxton to Robert Fiske, dated February 9, 1994.

BY MS. FISHER:

Do you recall specifically what steps were taken by the Rose Law Firm after receipt of the January 13, 1994 subpoena?

Well, of course, before that date, we had already taken steps just -- when I say "we," myself and my office manager -- to try to accumulate at least what was in the building. And when I say "the building," the main building.

And could I stop you there and ask the reason why you had taken those steps?

Well, we initially started taking those steps as early as November, because of again, for me. just simply trying to find out what Madison was about, who worked on the matters, in order to respond to questions.

And by late December, of course, it looked obvious that an independent counsel was going to be appointed, and we knew for a fact that our documents would be requested. I was already somewhat concerned about the status of our documents, since I knew at that point that some had been removed.

So we had started very preliminarily to accumulate this material. We had gone as far as to begin to interview counsel, and when we got the -- in fact, when we received the subpoena the day before, we were interviewing Mr. Atkins's partner. So immediately after we got that. I started sending out memorandums to the firm that we had received a subpoena or we were likely to receive a subpoena. Any documents related to the Madison Whitewater matter should be maintained. If they had any

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should contact me about that.

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And that started pretty much in full force once we received that first subpoena, even though it was withdrawn the next day.

information related to the removal of files, they

5 And what -- why -- could you explain why it 6 was withdrawn the next day? 7

MR. KRAVITZ: To the extent he knows.

MS. FISHER: To the extent you know.

MR. ATKINS: Based on press reports.

THE WITNESS: Based on press reports, Mr. Mackay had said, since Mr. Fiske had been

reported, he thought it was polite or courteous or something to stay out of it.

BY MS. FISHER:

I am going to show you a document, RLF 2030299, and ask whether you are familiar with this document. It is a handwritten note that says "we could not find anything for Madison, '83, '84, '85, '86."

Α Yes.

"There was a client, Madison Guaranty, set up but we do not show any activity."

1 Whose initials are those, looks like HOR?

> No, that is HCR, and that is Herbert Rule. Α

- Do you know the circumstances of this note?
- A Yes, this is -- I will have to double-check

but I believe this was the note that Cathy Harris

sent me in November of 1993. Again, I think I

testified earlier that I had asked her to go look at

the billing matters we might have in the building. 9

She reported back to me that she could not find anything but that there was a client, Madison

Guaranty, set up but we do not show any activity.

She said she saw something related to HCR, which was Herb Rule, and Herb, in fact, had done a little work on one of the matters. I think she saw his initials on a billing on the BATs, or something

she had seen his initials on it. This is Cathy

17 Harris's writing.

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Is Cathy Harris still a member of the firm? 0

Yes, she is our office administrator.

I want to show you a document that's been marked RS 1056 to RS 1058, dated January 20, 1994,

which is a memo from you to all firm members, and ask

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1 you if you are familiar with this. 2

Yes, I am. Α

Do you recall whether this was the first notice you sent to other members of the Rose Law Firm regarding the subpoena served on the Rose Law Firm?

I don't recall whether this was the first one or not, no.

Have you -- do you recollect that there were any such memos or such notices sent prior to January 20th?

If it hadn't been produced, then no, I would think probably not.

Do you recall when the Rose Law Firm was first notified or first had actual notice regarding the investigation by the RTC into the Rose Law Firm?

A It would have been -- I believe it would have been sometime after this. I want to say that the FDIC report came out in maybe late February or March, and -- well, let me back up.

I certainly knew the FDIC was looking into the conflicts issue during that period of time and we knew they were looking into the report, both the FDIC

1 and the RTC. Just on the conflicts, being the Frost 2 matter, because they had one conversation with me. but as far as investigation, that would have been. I 3 4 believe I am correct, that would have been in March. 5 I would say.

When did you first learn about the RTC or FDIC investigation of the conflicts issue?

MR. ATKINS: I'm sorry, I am going to interject here. I think we may have a nomenclature problem. By "investigation," are you referring to something by the RTC and/or the FDIC or the RTC IC Inspector General and the FDIC Inspector General? I have a feeling you are not communicating.

13 14 MS. FISHER: I believe there is -- first it 15 was investigated by the FDIC, and then the RTC IG and

the FDIC IG together. 16 17

THE WITNESS: Right. What happened is that the FDIC, after reviewing their internal files, I believe, and after talking to a few members of our firm, issued a report on whether there was a conflict of interest in our representation of the RTC in the

22 Frost litigation.

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The RTC, after talking to no one in our 2 firm, issued a similar report with different conclusions. Those reports, my recollection are, were issued in March, approximately March 15th, I 4 believe.

And at that point, Senator D'Amato expressed outrage with the conclusions and said it was a Whitewater whitewash, and ordered or said he was going to request the Inspectors General of those agencies to conduct an investigation of those conflicts of interest.

And that would have been the first time we would have known there was actually going to be an investigation, by the IG's offices, of those matters.

BY MS. FISHER:

16 When did you first learn that the FDIC or 17 the RTC was looking into this matter?

I think it was late February, early March.

19 Of '94? O 20

Of '94, yes. Α

21 So prior to that time you had no knowledge that anybody was looking at the conflicts issue? 22

A Right, that's right.

Q Did there come a time in January or February of 1994 when you became aware of allegations that there was certain documents or files shredded at the Rose Law Firm?

A Yes.

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Q Could you tell me how you learned of those allegations?

A Someone from a Washington, D.C. radio station called me at 5:30 in the morning at home, and said that The Washington Times, of which I had never heard, had reported an allegation that the Rose Firm had shredded Whitewater documents.

At which point, I categorically denied it, and then got dressed and went to the office.

Q That would have been approximately February 9?

A That would have been exactly February 9.

Q When you categorically denied it early in the morning of February 9th, on what basis were you making that denial?

A Because the -- they read the headline to me

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- and my recollection was the headline was that Rose
- 2 Law Firm shredded documents. And though I certainly
- 3 had no information as to whether someone may have
- 4 destroyed documents, I knew for a fact that no
- 5 documents were destroyed under the authority of the
- 6 Rose Law Firm because I would have had to know about

7 it, had they been so destroyed.

Q Meaning if someone had come to you and asked your permission, will the Rose Law Firm authorize this shredding, you would have had to have been asked?

A That's right.

Q But if some particular attorney wanted to shred documents, and not upon the authority of the Rose Law Firm, but upon their own will --

A That I did not know.

Q -- you did not know?

A That's right.

Q You were just denying those allegations on the basis of what came under the authority of the Rose Law Firm?

A Rose Law Firm as an entity, under my

193 1 authority or anyone else's, had not destroyed any 2 documents.

3 Did you take any steps that day to 4 determine where these allegations stemmed from?

I did. As soon as I got to the office, I called separate meetings with both our entire clerical staff, and then a separate -- a second

7 8 meeting with our runners and couriers, at which point

9 I told them of the allegations, told them I was very

concerned about it, that I wanted anybody who had any 10

information whatsoever concerning the destruction of 11

12 any documents relating to these matters to report

13 these matters to me immediately, and that if they

14 were uncomfortable reporting them to me, to find

15 somebody they were comfortable reporting them to.

And I did that before noon on the 9th.

17 Subsequently did you learn of anyone -- did anyone come forward? 18 19

The only thing -- well, let me -- the only thing -- nothing came forward in the staff. At the

meeting of the couriers -- I can recall this very 21

22 distinctly -- I think I was the only attorney with

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1 the staff, Jerry Jones was with me with the 2

couriers. One of the couriers spoke up and said that

3 he had recently destroyed some documents that bore

4 Vince Foster's initials, and to quote, he assumed

5 they had something to do with Whitewater.

6 MR. ATKINS: Excuse me. Let me interrupt.

7 The documents bore Vince Foster's initials?

8 THE WITNESS: The box, the box they were contained in. 9

MR. KRAVITZ: Say that again so it is

11 clear. 12

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THE WITNESS: He said that he had a box which contained Vince Foster's initials on the box. and that he assumed they had something to do with Whitewater.

BY MS FISHER:

Who was that courier? 0

Α Jeremy Hedges.

Does Mr. Hedges still work for the Rose Law 0

Firm? 20

21 Α No.

22 0 At that time he was a courier strictly for

1 the Rose Law Firm, or was he a contract courier?

A No, he was an employee of the firm.

Q What else did Mr. Hedges tell you at that time?

A That's really it. We told him that we -we had already talked to our attorneys, and knew that
we would be contacting the independent counsel to
assure them that we had not been destroying documents
and we would provide whatever cooperation we could.

I told him at that time that they were certainly to be questioned about this matter, that they should not in any way attempt to protect the firm, that they will be expected by us to tell the truth, and that if they were in any way uncomfortable with talking to me about this subject matter, again, they should find somebody they were comfortable talking to and tell them anything they knew about the destruction of documents.

Q When you say "they," who is they,

20 Mr. Hedges and who else?

A At this point, it was all the couriers except one, one of the couriers was not there, who I

talked to later.

Q Did Mr. Hedges make this statement in front of all the other couriers?

A Yes.

Q Did he tell you at that time or at some subsequent time who had asked him to destroy these documents?

A That's the last conversation I personally had with Jeremy. We were very much concerned about -- and when I say "conversation," where there was back and forth -- I was very much concerned about in any way being accused of attempting to affect what he might tell anyone. We immediately contacted the independent counsel who obviously said they wanted to question these people.

We engaged two different attorneys, and made them available to the couriers, and also told them if that if they wanted their separate attorney that we would pay for it. Mr. Hedges obtained his own counsel, which we did pay for and which I did have conversations with his counsel, but I did not

22 have an additional conversation with Mr. Hedges.

197 1 And who was his counsel? 0 2 Dean Overstreet. 3 Did you subsequently learn of any other 4 courier or any other staff members of the Rose Law 5 Firm being involved in the destruction of documents? 6 Α No. 7 0 Have you heard allegations of some 8 involvement by someone by the name of Clayton 9 Lindsey? 10 Α I wouldn't classify it as involvement. It 11 is my understanding that he may have testified, that 12 Jeremy had told him of some concern he had with these 13 documents, but as far as involvement, as far as physically doing it, I don't have any information 14 15 concerning that. Does Mr. Lindsey still work at the Rose Law 16 17 Firm? 18 No Α 19 What about someone by the name of Rickie 0 20 Stacey? 21 Rickie Stacey still works at the Rose 22 Firm. She is the person in charge of our remote 198 1 storage. Are you aware of any knowledge that 3 Ms. Stacey would have had regarding the destruction 4 of documents? 5 As far as I know, she has no knowledge. Α 6 What are the circumstances under which 0 7 Mr. Hedges left the firm? 8 He auit. Α 9 At what point in time? 10 I would say probably six to eight weeks Α after that. 11 12 0 How about Mr. Lindsey? 13 Α Same, he quit. 14 Q At the same time? I think he may have quit before Jeremy but 15 I don't -- I can give you those exact dates but I 16 17 don't know. 18 Do you have any information that either Mr. Hedges or Mr. Lindsey has had any contact with 19 members of the Rose Law Firm regarding destruction of

documents since February or March of 1994?

MR. ATKINS: You mean since they left?

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            MS. FISHER: Yes.
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            THE WITNESS: I have no information that
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    there has been any contact.
            BY MS. FISHER:
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           Would the destruction of documents or this
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    issue regarding the destruction of documents have
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    anything to do with the fact that Mr. Hedges and
    Mr. Lindsey left the firm?
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             They quit. You would have to ask them.
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             Do you know where they are located now?
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        Α
             No.
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             Did you ever learn anything further
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    regarding what these documents may have been, other
    than they were -- it was a box that was marked Vince
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    Foster?
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             Yes.
        Α
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             And what is that knowledge?
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             According to what we've learned, Mr. Hedges
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    indicated he destroyed a box of documents which had
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    Vince Foster's initials on it. He obtained that box.
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    or that box was sent downstairs to be destroyed by
    one of our file clerks. The file clerk was able to
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                                                           200
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    identify that box as to where it came from.
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            It was a box containing documents which
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    were placed in there by one of our partners when he
    was moving offices. We were just fortunate to be
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    able to find the original file folders those
 5
    documents came from, and I think we produced those to
 6
 7
    some people. Whether we produced those to you, I
 8
    don't know.
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            MR. ATKINS: We have --
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            MS. FISHER: What documents are those?
            MR. ATKINS: -- the file folders from which
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    these documents were obtained.
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            MS. FISHER: I see, I see. That's the
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    pages at the end of the production to us.
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            MR. ATKINS: They are photocopies of the
     file jackets from which these documents were
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17
     obtained, and those photocopies of the file jackets
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     were produced.
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            (Discussion off the record.)
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            BY MS. FISHER:
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Who was the name of the file clerk that --

Elise McShane. E-l-i-s-e, I believe.

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. . .

201 Do you have any further knowledge about any 1 2 other documents that were destroyed at the Rose Law 3 Firm during this time period? 4 5 Did you do any further internal 0investigation into any destruction of documents? 6 7 Well, we did, because I was not contacting 8 or discussing this directly with the courier, we did a significant amount of investigation, following 9 10 other possibilities, you know, accidental destruction. We went to remote storage to see if 11 12 there was any destruction going on over there of a 13 routine nature. We were involved in a recycling program during that period, you know, could any 14 documents have been sent to recycling. 15 16 So we did a significant amount of 17 investigation. We eventually discovered the fact though that, you know, that Mr. Hedges was saying 18 that the documents that he was concerned about came 19 20 from Elise, so we could pretty much pinpoint what 21 those documents were. And I mean, Mr. Hedges has apparently since stated he didn't think they had 22 202 anything to do with Whitewater. So once we found out 1 that they were -- where they came from, we thought we 2 had it pretty well pinned down as to what they were. 3 4 O Was there any kind of internal report or 5 notes taken at any internal interviews or anything like that, generated --6 7 Α No -- at this time? 8 0 9 Do you have any knowledge that any Rose Law Firm files were ever in the possession of Betsy 10 11 Wright? 12 No. Α Do you know Ms. Wright? 13 0 14 I know who she is. I have never met her. Α Has she ever visited the Rose Law Firm? 15 0 Not to my knowledge. 16 Α 17 Were there any other files returned to the 0 18 Rose Law Firm by David Kendall, other than ones 19 represented in the November letter? 20 No. Α 21 0 Were --22 MR. ATKINS: Excuse me. Can I confer with

1	my witness for a minute.	
2	(Witness conferred with counsel.)	
3	MR. ATKINS: Let me just say, Mr. Clark may	/
4	not know this, but there are some files relating to	
5	Whitewater that were returned by David Kendall that	
6	we have, in turn, produced to you. And they have our	
7	Bates number and they also have a DEK Bates number	at
8	the bottom.	
9	MR. GIUFFRA: Is there a transmittal letter	
10	from Mr. Kendall?	
11	MR. ATKINS: I don't believe	
12	MR. GIUFFRA: He sent them over without a	
13	transmittal letter?	
14	MR. ATKINS: My information was it was	
15	during one of the snowstorms which shut down	
16	Washington and no secretaries were around.	
17	MR. GIUFFRA: Did he hand-deliver them to	
18	you himself?	
19	MR. ATKINS: I think so.	
20	MR. GIUFFRA: Did he say where the	
21	documents came from?	
22	MR. ATKINS: These were Whitewater files	
		204
1	relating to work that had been done by Alan Bird.	204
2	relating to work that had been done by Alan Bird. MS. FISHER: Do you recall about what date	204
		204
2	MS. FISHER: Do you recall about what date that was? MR. ATKINS: February of '94.	204
2 3	MS. FISHER: Do you recall about what date that was?	204
2 3 4	MS. FISHER: Do you recall about what date that was? MR. ATKINS: February of '94.	204
2 3 4 5	MS. FISHER: Do you recall about what date that was? MR. ATKINS: February of '94. MS. FISHER: Soon after Vinson & Elkins	204
2 3 4 5 6	MS. FISHER: Do you recall about what date that was? MR. ATKINS: February of '94. MS. FISHER: Soon after Vinson & Elkins were retained?	204
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1 A Well, I let Alan refresh my recollection.

2 I recall having the discussion with Alan where he 3 reported to me the files were returned. I don't

4 think I saw those files they went from Alan's office

- 5 to the independent counsel.
- Q Do you recall any -- do you have any substantive knowledge about the work that Mr. Bird did?
- 9 A Yes, I had a conversation with Alan about 10 it.
- 11 Q Could you tell me about that?
- 12 A His recollection was that there was some
- lot that had been sold on a note, or a contract for sale, and the purchaser had gone into bankruptcy.
- 15 And he had done some work to try get a relief from
- 16 the stay so they could, in effect, foreclose or get
- 17 that lot back.
- MS. FISHER: Hold on just a second.
- 19 (Discussion off the record.)
- 20 BY MS. FISHER:
- Q Were any other files returned to the Rose
- 22 Law Firm by Mr. Kendall?

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- 1 A Not to my knowledge.
- Q How about Mr. Hubbell, did he ever return 3 any files?
- 4 A No.
- 5 Q Mr. Kennedy?
- 6 A No.
- 7 Q Mr. Hamilton or the firm of Swidler &
- 8 Berlin?
- 9 A No, I don't know of any Rose Law Firm files 10 that were returned by anyone else; Mr. Hamilton, no.
- 11 Q Mrs. Clinton?
- 12 A No.
- Q Do you know of any other original files that were taken from the firm at any time?
- 15 A There was a Bank of Kingston file which is 16 apparently taken.
 - Q And do you know who took that file?
- 18 A No.

17

- Q Was it an original file?
- 20 A I don't know.
- 21 Q How did you learn that there was a Bank of
- 22 Kingston file that was taken?

207 In the course of conversations with the 1 2 office of independent counsel, they said that 3 Mr. Hubbell produced to them a Bank of Kingston file 4 which they believed to be one of the Rose Firm 5 files. And it was shown to me in the grand jury and 6 it looked like it was one of the Rose Firm files. 7 Did you ever learn when that file was 8 removed from the Rose Law Firm? 9 Α No 10 \bigcirc Were there any other files that were --11 that were Rose Law Firm files, relating to any other matters, that you know of, taken out of the Rose Law 12 13 Firm? 14 A Not to my knowledge. 15 Did anyone during the 1992 Presidential campaign come to the Rose Law Firm to review any 16 17 files? 18 Α Not that I know of. 19 Other than Mrs. Clinton, were there any 0 20 other billing partners for Madison Guaranty matters? We have one -- I forgot what it's called 21 22 now. 208 1 New matter form? 0 2 New matter form which indicates that 3 Mr. Hubbell was the billing partner for one matter, 4 but that's the only one we have to indicate that. 5 And would that be document RS 00776? 0 6 Α Yes, that's it. 7 0 And that indicates that the billing 8 attorney is number 42, that was Mr. Hubbell's --9 Yes, billing number. -- number? 10 0 11 Would you tell me what this document 12 represents, RS 023224? It is called the daily 13 briefs; just explain to me what that document is. 14 Every day we send out -- this is in effect 15 the Rose Law Firm internal newsletter that gets 16 distributed every day, and it contains various 17 things, as you can see, like who has conference rooms 18 scheduled for that day. 19 One thing that it also contained is any

time a new matter is opened, it is published in the daily brief, primarily for conflict purposes to make sure everybody is identified, and that's what it is.

20

1 So, for example, on this document, RS 2 02324, this would signify that a Madison Guaranty 3 Savings & Loan file matter general was opened on 4 April 29, 1985?

It would have been opened actually before April 29, probably within two or three days before that, and then published or printed in the bulletin.

Were you able to locate any such daily briefs which indicated when a Madison Guaranty file 10 related to the matter of preferred stock was opened?

No

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See, for example, we have one that's marked general, one that's marked limited partnership, one that's marked Bibler Golden, and one that's marked IDC. But you don't have one for preferred stock; is that correct?

That's correct. Α

18 And could you explain to me why that might 19 be?

20 It could be various reasons. One, it could 21 have been that the account name was changed; maybe 22 general was converted to preferred stock; or it could

210

be that, since it was a subnumber, that it just wasn't published.

The primary reason we publish them is for conflicts, and since Madison had already been published, it could be that they just decided -whoever "they" being, some secretary downstairs -but I really don't know why.

Well, because you have one for general, then you have one for limited partnership, and then you have one for Bibler Golden, so that explanation wouldn't seem to fit here.

MR. ATKINS: Let me suggest another possibility, that it is an old piece of paper that doesn't exist.

THE WITNESS: We may not have it to that 15 16 degree.

BY MS. FISHER:

Is that because there aren't daily briefs before April 29, 1985? Are there documents that exist prior to this date that you've reviewed that it doesn't show up on?

22 Yes.

1 So you have, for example, reviewed April of 2 1985 daily briefs? 3 We reviewed all the daily briefs that we have. We certainly do not have all of them. 4 5 I see. 0 6 But I think we have them going back prior 7 to that period of time. 8 How far back? Would you have them, for 9 example, for August of 1984? 10 I don't know. I recall having one for April 25th of 1985. 11 12 Do you recall whether any documents in 1984 13 were reviewed to see if a Madison file was opened at 14 that time? 15 A Yes, we would have reviewed what accounting 16 records we had and what daily briefs we had going 17 back through almost the entire '80s. And this RS 32328, August 5, 1985, 18 19 signifies that the attorney for the IDC matter was 20 Mr. Hubbell --21 Α Yes. 22 Q -- is that correct? 212 1 That's correct. Α 2 So that would indicate that Mr. Hubbell 3 opened the file on the IDC matter; is that correct? 4 Well, what it actually reflects is that the 5 information on the new client matter, which would --6 you would think it would mean he would open it but --7 MR. GIUFFRA: Could we go off the record 8 for a second. Stay on the record really briefly. 9 We just received -- the Whitewater 10 Committee -- about I would say five minutes ago, 10 11 minutes ago, a letter from David Kendall, the law 12 firm of Williams & Connolly, making the supplemental 13 production of documents to the Whitewater Committee. 14 He is producing what appears to be a little bit over 15 120 pages of documents. These documents were 16 discovered yesterday by Ms. Carolyn Huber, special assistant to the President, special director of 17 18 correspondence. 19 The documents, according to Mr. Kendall who 20 I spoke to, were found at the White House. And they 21 appear to be copies of Rose Law Firm billing records

for the firm's -- copies of the Rose Law Firm billing

213 records for the firm's Madison Guaranty 1 2 representation in the mid-1980s. These documents 3 based on the run date, apparently, according to 4 Mr. Kendall's record, appeared to be collected early in the 1992 Presidential campaign. 5 6 I guess the question becomes you probably 7 haven't seen these records 8 THE WITNESS: I have not. 9 MR. GIUFFRA: You are probably unaware of 10 these records. 11 THE WITNESS: I am. 12 MR. GIUFFRA: This is probably the first 13 you have heard of these records; am I correct? 14 THE WITNESS: It is. 15 MR. GIUFFRA: And I don't know what we -- I 16 guess the procedure we should follow is maybe to have 17 Alice finish as much as she can do, but I think we will probably want you to come and interpret these 18 19 records for us. And I just don't know what your 20 schedule is 21 MR. ATKINS: Why don't we go off the 22 record. 214 1 (Discussion off the record.) 2 MS. FISHER: Can we go back on the record? 3 I want to ask a few questions about this 4 document that will help when we see them over the 5 weekend. 6 BY MS. FISHER: 7 Q Document DKSN 028928, to DKSN 028932, could 8 you explain to me what this is? 9 This is a client billing and payment 10 history. This is what we referred to -- well, let me 11 back up. 12 This is the client billing and payment 13 history which basically reflects every invoice that 14 was submitted, and the amount of -- amount collected 15 in payment of that invoice for all matters. 16 Have you seen this document before? Q 17 A I have never seen this document before. 18 Does this document exist at the Rose Law

A hard copy of this document does not exist

The only possibility that we had this

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Firm?

at the Rose Law Firm.

1 document would be on the Wang tapes.

Q Let me ask you this, it has little dots along the side. Would this document have had to be ripped out of a book? When it did exist at the Rose Law Firm where would it have been?

A This is just green bar paper, where it's printed on a standing computerized printer. This was before our system was changed over.

Q Let me ask you this, up in the corner, it says February 12, 1992, 8:41. Does that indicate to you that's when it was printed off the system?

A Yes

Q Is there anything on this document that would indicate who printed it off the system?

15 A No.

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16 Q There is no ID, who would have logged in to 17 get the printout, or anything like that?

A No.

19 Q So as of February 1992, this document 20 existed on the Wang system; is that correct?

A That's correct.

22 Q And as of -- as we stand here today, in

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1 early 1996, this document no longer exists on the Wang system; is that your understanding?

MR. ATKINS: The Wang system doesn't exist.

THE WITNESS: Later in 1992 is when we discontinued the Wang system and we backed up everything then on the system, on these disk packs that I talked about.

BY MS. FISHER:

9 Q If this document existed on the system, as 10 of February 12, 1992, what is the likelihood that it 11 would have been backed up on that system, when you 12 printed -- you know, on -- when you changed over?

A If this information was -- I can't tell you the likelihood. I just don't -- well, back up.

Q This is more than 90 days old as of '92, is what I am asking.

A I would think this particular information most likely would have been backed up at that time.

19 Q Okay. So, it probably does still exist in 20 some form, but we can't --

21 A I don't know.

Q -- we don't know if we can get to it

because of the computer problems? 1

That's correct. That's correct.

MR. ATKINS: Let me also tell you that in our inquiries of computer geeks about these disks, they tell us the disks may be unreadable because of their condition.

MS. FISHER: I understand.

BY MS. FISHER:

On the last page of this, page 5, it says "report total fee 21,202.25." Would that be the total amount billed for this client, no matter what lawver worked on it?

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What would be over under realization number?

That would have been amounts that were -we have each computer -- each attorney has their hourly rate inside the computer. And that just means the total accumulation of hourly rates which is probably 2543.75 less than what was actually billed.

So you added this on to the bill to come to the 21,000?

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Or somebody was billed actually at a higher 2 rate, that's what it was.

This is the number of hours that were put into the system, 95.72?

A No, that's the average hourly rate that was billed, \$95.72.

And what is this 339? O

That's disbursement.

Okay, great. Thank you. I am going to try to finish because I know you have to leave, so I don't want to spend too much time on these new bills before we digest them anyway.

I wanted to ask you a question about the computer system that you had at the end of 1992 and 1993, and ask whether there was a format where documents, when they were printed out, would be automatically dated?

Yes.

Could you tell me something a little bit about that? And I will tell you why I am asking this. We have a memo here that's from Vince Foster. November 8, 1993.

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            Would that signify when this document was
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    printed off the system?
 3
             Yes, back in November 1993, again, we were
 4
    trying to discover any information. This was one of
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    the things which we found referenced on the computer
 6
    libraries. I asked Vince's secretary to print this
 7
    document out; she printed it out. I immediately
 8
    noticed the same thing. I asked her about it and she
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    said, no, you can code a document in to where it is
    updated every time it is printed out. That means it
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11
    is the date it was printed out.
12
             I see.
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            And it was under your instruction that this
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    document was printed out?
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        Α
             Yes
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        0
             Did you have any conversations with anyone,
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    other than members of the Rose Law Firm, about
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    Whitewater documents prior to November 1993?
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             No
20
             For example, you didn't have any
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    conversations with anyone from the White House --
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             Absolutely not.
                                                           220
 1
        Q
             -- during this time, November of 1993?
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        Α
             No.
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        0
             Any conversations with Mr. Bruce Lindsey?
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             I have never spoken to Mr. Bruce Lindsey.
        Α
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        0
             Mr. Stephen Engstrom?
 6
        Α
             No.
 7
             Mr. Jim Lyons?
        0
 8
             No.
        Α
9
             David Kendall?
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        Α
             No.
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        Q
             Mr. Kennedy?
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        Α
             No.
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             And the reason I ask is because this
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    November 8 date is three days after the November 5th
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    meeting between all those people, so I just wanted to
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    make sure that there wasn't -- see whether there was
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    any relation to that.
             No.
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            MR. ATKINS: Probably prompted by the same
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    press inquiries.
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            BY MS. FISHER:
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Do you know if, at any time, the Rose Law

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Q

Firm received any checks from the account ofWhitewater Development Corporation?

A I do not believe wo did. We have no record of receiving any checks.

Q Do you have any knowledge that the firm may have been retained by Madison prior to April of 1985?

A We had been retained by Madison Bank in the Bank of Kingston litigation. Frankly I don't know how Madison Bank relates to Madison Savings & Loan, but they were both owned by Jim McDougal is my understanding, or at least partially owned.

Q Other than that, do you have any other knowledge --

A No.

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Q -- of any retainer agreement prior to --

A No.

17 Q I want to show you a document that is dated 18 February 11, from Walter Stuart to David Kendall, RS 19 744. I ask you if you have ever seen this document.

A I don't recall seeing it, but I am shown receiving a copy so I am sure I have seen it.

Q Do you have any knowledge of the

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circumstances surrounding this document?

A No.

Q Do you have any knowledge of a joint defense agreement between the Rose Law Firm and the Clintons?

6 A No.

Q For example, this document says "confidential joint defense communication." Do you have anything that may explain that legend on the letter --

A No.

Q -- any knowledge?

Have you had contact since -- prior to, let's say, October of 1993, up until the present time with any member of the White House?

16 A Yes.

MR. ATKINS: What was the date range? MS. FISHER: October 1993 to the present.

BY MS. FISHER:

Q Could you tell me the circumstances of those conversations?

A In December of 1993, the members of the

223 firm were invited to one of the White House Christmas 1 parties, and my wife and I attended that. And at 2 3 that party I spoke to Mrs. Clinton. 4 Did you speak to Mrs. Clinton about any matters related to Madison/Whitewater? 5 6 7 Anything at all related to any of those O 8 documents? 9 No, it was in a room of about 600 other 10 people. Did you talk to anyone else at that 11 12 meeting, or that party? 13 I saw Carolyn but I don't think I spoke to her. And I also saw Web and I definitely did not 14 speak to him. 15 16 Are there any other circumstances that you 17 had contact with any member of the White House during 18 that time period? 19 No Α 20 Do you have any knowledge that there was an attempt to take documents out of the Rose Law Firm 21 after November 5, 1993? 22 224 1 I had -- no, there was no -- to my knowledge, there was no attempt whatsoever to remove 2 documents after that date. 3 Do you have any knowledge of any Whitewater 4 5 documents being taken out of the Rose Law Firm in 1992 or 1993? 6 7 A No, I have no knowledge. 8 O Do you have any knowledge of any Whitewater 9 documents being removed from the firm prior to 1992? 10 I have knowledge of the ones that Mr. Kendall was working on that, apparently at some 11 time, were removed from the firm. 12 13 Q For the Presidential campaign? Right, in the February, March time frame of 14 Α 15 1992. 16 Have you ever had any conversations with a woman by the name of Loretta Lynch? 17 18 No. 19 Have you ever had any conversations with Jim McDougal? 20

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No.

Mr. Sam Heuer?

Α

225 1 Heuer? Sam Heuer and I were in the eighth 2 grade together, so not since the late '60s. 3 I am going to correct the record. He was in the eighth grade with my sister. 4 5 Other than members of the press and your 6 counsel, have you been contacted by any other 7 individuals regarding the Madison files? MR. ATKINS: You mean other than the dozens 8 9 of investigators swarming over the Rose Law Firm? BY MS. FISHER: 10 11 Investigators, press. 0 Other than investigators and press and my 12 13 own partners and lawyers. 14 And counsel? 0 15 Α No. 16 MS. FISHER: I have no further questions. MR. KRAVITZ: Let's go off the record for a 17 18 minute. 19 (Discussion off the record.) 20 **EXAMINATION** 21 BY MR. KRAVITZ: 22 Mr. Clark, you testified this morning about 226 1 some advance checks that Mr. Hubbell wrote to his 2 credit card company or companies while he was a partner at the Rose Law Firm, checks that you 3 4 reviewed at some point after Mr. Hubbell left the 5 Rose Law Firm. 6 And I believe you testified that on two or 7 three of those checks that were for more than a 8 thousand dollars, Mrs. Clinton had cosigned the 9 checks? 10 That's correct. Α Do you have any reason to believe that 11 12 Mrs. Clinton knew at the time that she cosigned any of those two or three checks that the checks were 13 14 fraudulent in any way? 15 No. Web Hubbell, as evidenced by how far

19 Q And these two or three checks that
20 Mrs. Clinton cosigned were two or three out of how
21 many, approximately?
22 A Probably 3- to 400.

signed them without second thoughts.

he got in the scheme, was one of the most trusted

people in the firm. Had he come to me, I would have

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Q So there was no pattern of Mr. Hubbell routinely going to Mrs. Clinton for cosignature on checks?

A No, the vast majority of them were under a thousand dollars and there were very few over a thousand dollars, but even -- there may have been 20 or 30 over a thousand dollars, and she had signed two or three of them.

Q This afternoon you answered some questions about the subject of allegations that documents had been shredded by Rose Law Firm couriers or other employees, allegations that I believe you testified came out in February of 1994 or at least were reported in February of 1994.

As a result of investigation that you conducted, and investigations that you are aware of conducted by others, do you have any reason to believe that any documents related to Whitewater Development Corporation, or Madison Guaranty Savings & Loan were destroyed by any Rose Law Firm employees?

A No, I have no way of knowing such documents were so destroyed.

Q As a result of your investigation and your knowledge of investigations conducted by others, do you have a belief as to whether or not documents related to Whitewater or Madison were destroyed by Rose Law Firm employees?

A I did not believe they were destroyed.

MR. KRAVITZ: That's all I have. Thanks.

(Whereupon, at 4:43 p.m., the deposition was adjourned.)

9 adjourned

RONALD M. CLARK

1 2

I, JOANNE LIVERANI , the officer before whom the foregoing deposition was taken, do hereby certify that the witness whose testimony appears in the foregoing deposition was duly sworn; that the testimony of said witness was taken in shorthand and thereafter reduced to typewriting by me or under my direction; that said deposition is a true record of the testimony given by said witness; that I am neither counsel for, related to, nor employed by any of the parties to the action in which this deposition was taken; and, further, that I am not a relative or employee of any attorney or counsel employed by the parties hereto, nor financially or otherwise interested in the outcome of this action.

Manne Killerane
Notary Public in and for the
District of Columbia

My Commission Expires

JULY 31, 2000

ERRATA

PAGE	LINE	CHANGE FROM	CHANGE TO	REASON
73		wonderful		error
76	22	press independent	press the independent	transcription error ("TE")
83	<u>18-</u> 19	could you	you could	TE
83	19	time was	time, then it was	TE
97		wasted upon	limited to	TE
110	15_	bill	billed	TE .
122	16	its	his	TE
127	5	If's	It's	TE
163	_1_	RSS	RS	TE
179	10_	filings	files	TE
186	12_	reported.	appointed.	TE
205	_1_	Alan	Alden	TE
228	6	did	do	TE

ROSE LAW FIRM

186 EAST POURTH STREET LITTLE ROCK, ARKANSAS 72201

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PHONE (800) 379-0131

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DISSURSEMENTS

TOTAL DISTURSES: TS

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DEPOSITION OF BRUCE R. LINDSEY IN RE: S. RES. 120

WEDNESDAY, JANUARY 10, 1996

U.S. Senate,
Committee on Banking, Housing, and Urban Affairs,
Special Committee to Investigate Whitewater
Development Corporation and Related Matters,
Washington, DC.

Deposition of BRUCE R. LINDSEY, called for examination pursuant to notice of deposition, at 3:50 p.m. in Room 534 of the Dirksen Senate Office Building, before JULIE BAKER, a Notary Public within and for the District of Columbia, when were present:

ROBERT J. GIUFFRA, JR., Esq.
Majority Chief Counsel
NEAL E. KRAVITZ, Esq.
Minority Principal Deputy Special Counsel
U.S. Senate
Committee on Banking, Housing, and Urban Affairs
534 Dirksen Building
Washington, DC 20510
On behalf of the Committee.

ALLEN R. SNYDER, Esq. Hogan & Hartson 555 Thirteenth Street, NW Washington, DC 20004 On behalf of the Deponent.

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PROCEEDINGS

MR. GIUFFRA: This is a deposition that's being conducted pursuant to Senate Resolution 120.

Mr. Lindsey, you've been deposed before and you don't need me, I suspect, to go through the entire preamble.

MR. LINDSEY: Do not.

MR. SNYDER: I would just like to say for the record, as we've discussed, Mr. Giuffra knows that Mr. Lindsey and I each have some commitments this evening that we had indicated we needed to leave here by 6:30 or 7:00 at the absolute, absolute latest. And we had offered to start at 2:00. There were some conflicting scheduling problems that Mr. Giuffra had and he had proposed that we start immediately after what he thought would be 3:00 and obviously ran a little bit longer. We're happy to proceed as fast as we can and hopefully we can finish the today because we really.

up today because we really -- I don't think are going to be able to come back. We'll talk as fast as we can and try to cooperate with you to move it along.

MR. GIUFFRA: We appreciate Mr. Lindsey and

Mr. Snyder's cooperation.

Mr. Lindsey, if I could begin, I'd like to show you a document -- this is a document the White House has shown to Committee counsel in a Times editorial 1993. The editorial contains some handwritten marginalia of the President. I have written on the document the marginalia as it was shown to me and to Mr. Kravitz, and I'd like to ask you about the document.

Whereupon,

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BRUCE R. LINDSEY

was called as a witness and, having first been duly sworn, was examined and testified as follows:

MR. KRAVITZ: Bob, do you have -- I guess you don't because it wasn't given to us, but maybe you can refresh Mr. Lindsey's memory by telling him there was another page to this document that indicated that it was sent to him.

MR. GIUFFRA: Yes, I will. Mr. Kravitz has stated, exactly, there was another page that said "Mack/BL."

MR. SNYDER: I'm sorry. What did it say?

5 1 MR. GIUFFRA: Mack/BL. 2 THE WITNESS: Mack McLarty. 3 EXAMINATION 4 BY MR. GIUFFRA: 5 What do you recall about this document, if 0 6 anything? 7 Α I don't recall anything. Obviously I 8 received it from the President, but I don't -- until 9 I read about it in last Sunday's -- or one of the papers over the weekend that this was an issue, I had 10 11 forgotten completely about it. 12 Do you recall ever receiving this editorial 13 from the President? 14 Yes. I mean, do I recall it, no. But I 15 did receive it. 16 0 The editorial was found in your files; 17 correct? It should have been. 18 Α 19 0 You don't recall contacting Ms. Bassett 20 following the receipt of this editorial with the marginalia from the President? 21 22 I don't remember contacting her in response 6 to this. I spoke -- I don't know if I spoke to 1 2 Beverly, but I spoke to several people who were talking with Beverly, and in communication with 3 Beverly probably around this time about -- about 4 5 Beverly getting her story of what happened out when 6 this became an issue. 7 As the President noted, she did at some of the campaign -- and you probably have seen in my 8 file, I think, several people did -- chronologies of 9 10 the documents within the state security commissioner's files to demonstrate what actions she 11 did take over a period of a year, year and a half to 12 13 try to get the federal government to act with respect 14 to Madison. 15 By the way, I actually have looked at the original "can she now." I have trouble with the word 16 "can." I don't know if you've seen his 17 18 handwriting. I'm not sure -- that is not his 19 handwriting. That's somebody's handwriting of what 20 he said.

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Q

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My handwriting.

I can read most of it. I couldn't read the

word "can." It could well be "can." But it was difficult for me to read in the version I saw.

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Who else did you speak to with regard to whether Ms. Bassett could be able to stick to the story that she set forth before the campaign?

That's not what I said. There was never a question about her sticking to the story. There was a question about whether she would talk to the press about her story. She would get her story out. She was very -- mostly the people I talked to were -- at one point, I think I spoke to Archie Schaffer, her husband. And the other person I spoke to were at least one and maybe two of my law partners and her law partners.

When you spoke to Archie Schaffer, do you recall when you spoke to Archie Schaffer?

No. I spoke to Archie several times. Archie was mostly concerned -- I don't know if you

remember, there was this period -- you could ask Senator Faircloth's assistant about it -- because

there was a period of time when he was in

Fayetteville, I'll use the word "stalking," Beverly 22

8

and Archie was very upset about that; took his

picture through a window one time which made the front page of some of our local papers, and again,

I'm having trouble remembering when that was. But I

spoke to Archie at some point around then. Archie

sent me a copy of the article as it appeared in the

7 Northwest Arkansas Times and Beverly was very upset

8 and unhappy about this guy basically stalking her.

9 David -- what's his name? Anyway, what's Faircloth's 10 guy's name?

> Let me ask a question. 0

He used to work for Citizens Action. Α

Did you attend a -- do you recall attending

any University of Arkansas basketball games in

December of 1993?

I attended a University of Arkansas basketball game sometime around then.

0 December 28th?

Again, I couldn't tell you the date. A

0 And you attended the game in the Tyson

21 Foods box?

> Α I think that's right.

		0
1	Q And who was present during the game?	9
2	A There was a ton of people up there.	
3	Archie if your question was, were the Schaffers	
4	there, I think Archie was there and Beverly were	
5	there. At least Beverly was there during part of	
6	it.	
7	Q And was the President present?	
8	A I'm not sure he was in the box. He may	
9	have been down in the stands. We had a box, but I	
10	think he actually sat not in the box but in the	
11	stands below us.	
12	Q Do you recall any discussion between the	
13	President, Archie Schaffer and yourself with regard	
14	to anything having to do with Whitewater or Madison	
15	Guaranty?	
16	A I remember speaking to Archie about some of	
17	this stuff. I don't remember whether the President	
18	was around.	
19	Q Do you recall any conversation between the	
20	President and either Archie Schaffer or Beverly	
21	Bassett-Schaffer during this basketball game?	
du S	Dassett Senatici daring this basketball game.	
22	A Not specifically.	
22	A Not specifically.	10
22 1	A Not specifically. Q Generally?	10
1 2	A Not specifically. Q Generally? A Well, if the President was there, and I	10
1 2 3	A Not specifically. Q Generally? A Well, if the President was there, and I think at some point the President was in the box, my	10
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Beverly at the Arkansas basketball game, that would

be the only time I would be aware that he spoke to

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Beverly during that time frame.

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BY MR. GIUFFRA:

Q And your testimony is you don't know whether he did?

A I would assume he spoke to her. I don't have a recollection that we spoke about or that he spoke to her in my presence about Whitewater.

Q Do you know whether he spoke to Mr. Archie Schaffer about Whitewater at any time?

A Again, the only thing I would be aware of is what happened in my presence, and I don't have any specific recollection. I remember that I spoke to Archie about Whitewater -- about Beverly, which is different than Whitewater, but about Beverly and about how Beverly felt she had been treated by the press. But again, I don't remember whether the President was involved in any of that conversation or not. I don't think he was, but I don't remember whether he was or wasn't.

Q Your testimony is you don't know one way or the other whether the President might have participated in a conversation with Ms. Schaffer at

the basketball game about Whitewater or Madison or Mr. Schaffer?

A The only thing -- yeah. The only thing I would ever be aware of is what happened in my presence.

Q Or if he told you?

A Or if he told me. I don't remember him telling me and I don't have any specific recollection of his being present at the same time I spoke to Archie about this. I don't know if I ever spoke to Beverly about this because I think after speaking to Archie I got the impression that Beverly was upset about it and that it was not a good idea to bring it up because she was very upset about it, so I would have probably avoided it to try and not upset her.

Q Did you ever get any indication from Beverly Schaffer that statements she made during the campaign she might have to correct during '93 or '94?

A No.

Q You never got any indication from

Mr. Schaffer to that effect?

A No.

1 Neither Mr. Schaffer or Mrs. Schaffer ever 2 indicated to you about statements she made during the 3 campaign about Madison or Whitewater?

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No. They expressed concern about the way her statements were characterized but not about their statements. She felt like she had spent a lot of time with Jeff Gerth going over for him, explaining for him what had happened and thought that the way she was portraved in his articles were unfair and did not represent the time she had spent and the effort she had made.

What specifically did Ms. Schaffer object to with regard to the reporting of Mr. Gerth?

That he -- I think she went through -- I think she familiarized herself with a lot -- I think she wrote three or four memos to him outlining what steps she did take, what she -- what efforts she made, that there's a reference, for example, in this editorial about her doing nothing to shut him down.

20 Well, of course, if the state shuts down an 21 S&L, the people who have their money there are not 22 eligible for the federal guarantee and so therefore,

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1 she felt like she did everything she could to

2 encourage the Feds to shut them down, but a

3 suggestion that the state should have just walked in

4 there and shut them down at some point she thought

5 was totally unrealistic. I think she tried to

6 explain that to him, to indicate what steps she took, 7

and felt like he ignored most of it and wrote what he wanted to write.

9 Mr. Lindsey, are you aware of the billing 10 records that the White House produced to the Committee last Friday? 11

12 Am I aware of them -- I know they produced 13 it. I've read about them.

> The Rose Law Firm billing records? 0

Α I've read about them.

16 0 Have you ever seen those billing records?

17 I actually saw them this morning. Α

18 Had you ever seen them during the 1992 0

19 presidential campaign?

20 Α No.

Had you ever seen them during 1993? 21 0

22 Α No.

15 O 1994? 1 2 Α No. 3 So the first time you've ever seen those 0 4 billing records was this morning? 5 Right. A 6 Did you ever have any discussions with 0 7 Mr. Webster Hubbell about Rose Law Firm billing records? 8 9 Α No. Q Have you ever had any discussion with 10 11 Mr. Vincent Foster about Rose Law Firm billing 12 records? 13 A No. 14 Have you ever had any discussion with 0 15 Mrs. Clinton about Rose Law Firm billing records? 16 Α No. Ever have any discussion with -- strike 17 0 18 that. 19 Now, I'd like to direct your attention to a meeting that was held at Williams & Connolly on 20 November 5, 1993. Do you recall attending that 21 22 meeting? 16 1 A Yes. 2 Was that the first communication that you 3 had with Mr. Kendall? 4 A Probably. 5 Q And what was the purpose of that meeting? 6 A To bring him up to speed on Whitewater and 7 what had gone on before. Q Now, was the purpose of the meeting to 8 9 impart to Mr. Kendall information that persons at the White House had gathered with respect to Whitewater? 10 11 I'm not sure gathered, but that we had. 12 The White House --0 13 A Yeah, but White House -- it was also Jim 14 Lyons. It was all the information from the campaign, from the Lyons report, from Arkansas that we had. 15 16 Who do you recall planning the meeting? Q 17 Α I don't have any idea. 18 0 Do you remember who advised you of the 19 meeting? 20 It would be a guess. It would be that 21 Bernie told me about it or invited me. Looking at

the list, I don't think I had -- I don't know if I

had ever met Kendall before then and I can't imagine 1 2

any of the other people having done that. While I

3 don't have any memory of Bernie doing it, he would

have been the only logical one of doing it. 4

5 Were the President and First Lady aware of 6 this meeting?

> Α I don't know.

Have you ever discussed with the President what transpired at this meeting?

A No.

O Have you ever discussed with the First Lady what transpired at this meeting?

No

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O Now, was this the only meeting you attended with Mr. Kendall from November 5, 1993 to the present?

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> What other meetings have you attended with Mr. Kendall?

I don't know if I could -- we've had 20 various meetings at the White House that he would 21 22 attend, either he or one of his associates. I

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couldn't detail them for you because -- I don't 1

2 remember a specific one, but over a period of the

next couple of months when we would have a meeting, 3

at the time when we had this sort of working group, I 4

think he might have been at some of those. I've 5

attended meetings -- I attended a meeting with 6

Mr. Kendall in Denver, Colorado with Jim Lyons and 7

people from Patton, McCarthy. 8 9

Do you recall when that meeting was?

March of '94, and I remember at least a meeting that I had with, maybe more than one, but only one I guess I can clearly remember involving the

13 President and the First Lady and David Kendall.

Do you recall when that meeting was?

No. I mean, it would have been sometime in

either late '93 or early '94, but I don't recall. I 16

think Bernie was in it, I think, so it had to be 17

before March of '94. 18

O Your recollection would be that

20 Mr. Nussbaum attended this meeting with the President

and First Lady, Mr. Kendall and yourself? 21

22 Yes. Α

1 O So it would be before March '94. Do you 2 recall any other meetings involving yourself and Mr. Kendall? 3 4 I remember around the time we were turning 5 over documents to the Justice Department. I guess 6 this is before the Independent Counsel. 7 Mr. Mackay --8 Was the White House turning over documents? 0 9 No, it was Mr. Kendall turning over documents. I issued, though, on behalf of the White 10 11 House one, maybe two statements. We turned over the documents in two different groups, half of them the 12 first time, and five and five. I think they 13 14 ultimately represented about 10 boxes. I met with 15 him, I think, one time in the counsel's office in 16 which we discussed the public statement. 17 MR. SNYDER: Be careful about --18 THE WITNESS: We discussed the statement 19 that Lissued. 20 MR. SNYDER: I just want to note for the 21 record I haven't interposed any objections because at 22 this point, as I understand the questions and the 20 1 responses, you've just been asking for whether there 2 were meetings and who attended and so I have not 3 objected. But obviously, there are issues of attorney-client privilege which have been discussed 4 in other forums and my understanding is that there's 5 been a waiver of attorney-client privilege vis-a-vis 6 7 the November 5 meeting with Mr. Kendall, but as I 8 understand it, there has not been a waiver of with 9 regard to other meetings that have similar 10 attorney-client privilege and related privilege 11 issues. 12 MR. KRAVITZ: And the Committee has made 13 clear that it does not view the waiver of the 14 privilege as to the November 5, 1993 meeting as a 15 general waiver affecting any other privileged 16 meetings. 17 MR. GIUFFRA: Has Mr. Kendall instructed 18 Mr. Lindsey to not answer questions with regard to 19 the substance of any other meetings he may have had with Mr. Kendall on grounds of attorney-client 20

MR. SNYDER: I have been advised by

privilege?

21 1 Mr. Kendall's office and by the White House counsel's 2 office that there has been no waiver of attorney-client privilege with regard to other 3 4 discussions with Mr. Kendall and we have not received 5 any instructions. We've just been informed that there's been no waiver, and therefore, I do not 6 7 believe that Mr. Lindsey is free to testify about the 8 substance of any discussions he had with counsel for 9 the President. And if there are issues about that, obviously, you should consult with the White House 10 11 counsel's office or Mr. Kendall as appropriate. 12 MR. GIUFFRA: I don't see a problem with 13 identifying the communications. It's obviously the 14 substantive communication where the problem is. 15 MR. SNYDER: I have not objected to any of 16 your questions so far. I wanted to make it clear for 17 the record. 18 MR. KRAVITZ: Let me make one other 19 suggestion. In the event that Mr. Lindsey testifies before the Committee next week or some other time in 20 21 the near future regarding the November 5, 1993 22 meeting, that rather than asking Mr. Lindsey about 22 1 these other meetings or the substance of these other meetings at the public hearing without having 3 broached the subject first with the White House and Mr. Kendall, that the Committee approach Mr. Kendall 4 5 and the White House, if it's interested in the substance of these other meetings, in advance so that 6 Mr. Lindsey is not faced with having to be conferring 7 with his lawyer on national television and then have 8 9 his picture in the paper the next morning, as what happened to him the last time he was here. 10 Would you agree, Bob, that that's an 11 12 appropriate approach to take? 13 MR. GIUFFRA: We'll take that under 14 advisement. 15 MR. SNYDER: I strongly associate myself 16 with Mr. Kravitz's request and remarks. THE WITNESS: So do I. 17 18 BY MR. GIUFFRA: 19 Mr. Lindsey, can you recall any other

meetings you might have attended with Mr. Kendall?

lot of times when I would get inquiries from the

Not specifically. I mean, there would be a

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press that I would speak to him or he would get them 1 or we would both get them, frankly. I think a lot of 2 3 times, if they called me, they would call him. We 4 compared notes. A lot of that would be done by 5 phone. But no, I can't conjure up in my mind any 6 other specific meetings, but I'm sure there were 7 some.

What would be your best estimate of the \mathbf{O} number of meetings you held with Mr. David Kendall?

MR. SNYDER: By meetings, do you include telephone conversations?

MR. GIUFFRA: No. Just face-to-face meetings.

MR. SNYDER: Can I also clarify the time frame? Do you mean up to date?

MR. GIUFFRA: That would be between November 5, 1993, and I think today is the 10th.

MR. SNYDER: Let me just interrupt for a moment. I was under the impression that there was some understanding between the White House counsel's office and the Committee that there would not even be

22 questions asked about communications beyond a certain

1 point in time, whether it's when this Committee's proceedings began or whether it's when the 3 Independent Counsel's proceedings began. At some 4 point in time, the discussions between counsel the Committee wasn't even going to ask about. I'm not

5 6 clear of the details of that. 7 MR. GIUFFRA: I think what you're 8

referencing is the initial subpoena that was sent. I believe, in October had an end date of, I believe,

10 March 4, 1994.

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MR. SNYDER: That is what I'm referring to.

MR. GIUFFRA: But the Committee always reserves its right to ask for information after that date. And really what I'm trying to do here is just identify meetings to the extent there were meetings and not ask about the substance of them.

17 MR. KRAVITZ: Let me just say, my 18 understanding of the background of that agreement of 19 the March 4, 1994 date was that the Committee 20 recognized that it had no legitimate purpose in 21 investigating work that the White House counsel's 22 office did in preparation for Congressional

1 hearings.

I'm not sure that analogous agreements were ever reached between the Committee and Mr. Kendall, but it would seem to me that the same approach would apply. If whatever conversations Mr. Lindsey may have had with Mr. Kendall since that time had to do with preparation for a Congressional hearings, I would think that the same approach would apply. Of course, I have no idea what the answer is. Maybe you need to consult with Mr. Lindsey about that.

MR. GIUFFRA: Why don't we see if we can just get an answer to the question.

BY MR. GIUFFRA:

- Q Do you have any rough estimate of the number of meetings you might have had with Mr. Kendall between November 5 --
 - A It's just a guess --
 - Q -- '93 to the present?
 - A I would think -- again, it's hard to
- remember. Sometimes when we would be -- again, in late '93, early '94, sometimes he might be there.
- 22 Sometimes one of his associates might be there.

- Sometimes they might be on a conference call. So you know, I can't remember whether he was there in person or whether he was at the other end of a speakerphone. But I would think it would be less than a dozen.

 On And would it be your testimony that the
 - Q And would it be your testimony that the bulk of those meetings occurred in late '93, early '94?
 - A Yeah, I think so.
 - Q With regard to those meetings that you might have attended with Mr. Kendall, did you take any notes?
 - A If I did, you have them. I mean, I don't remember taking specific notes.
 - Q So as far as you know, you're not personally withholding any notes that you might have taken at meetings with Mr. Kendall on grounds of attorney-client privilege?
 - A Is that right?
 MR. SNYDER: That's my understanding.
 BY MR. GIUFFRA:
 - Q You're not asserting attorney-client

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privilege with regard to any documents that are in 1 2 your possession, custody or control? 3 MR. SNYDER: We have not. With regard to 4 the Senate, I don't think you have asked for any 5 documents. If you had, we would have asserted the 6 privilege. If we had something that was responsive. 7 Give me a moment. 8 (Witness conferred with counsel.) 9 MR. SNYDER: I don't frankly remember 10 exactly what you've asked for and what we've 11 produced, but any documents you've asked for, if we 12 had documents responsive to your request that we were 13 withholding based on attorney-client privilege, we 14 would have told you, and I'm not aware of any such 15 issues. 16 MR. GIUFFRA: Could you just check to 17 ascertain whether there are any such documents, 18 because our request to Mr. Lindsey were, in short, for any documents that refer or relate to Madison. 19 20 So if he had communications about those subjects with 21 Mr. Kendall, those documents would be called for. 22 MR. SNYDER: I don't think there are any 1 such documents, but I'll check. But I don't think 2 there are. 3 BY MR. GIUFFRA: 4 Mr. Lindsey, would you have been 5 Mr. Kendall's primary contact at the White House 6 during this period, late '93 and early '94? 7 I have no idea. I doubt that. I would 8 have thought others -- he would have contacted others 9 as well as me. I mean -- main contact -- I mean, he 10 and I spoke, but I would have thought he would have 11 spoken to others on a fairly regular basis. 12 Would those have included Mr. Nussbaum? 0 13 Α Yes. 14 O Mr. Eggleston? I don't know, but probably. 15 Α 16 O Who else might he have spoken to during 17 this period? 18 I would think Mr. Podesta. 19 MR. KRAVITZ: Are you asking him to 20 speculate or who he knows that he talked to? 21 THE WITNESS: Again, part of it is I have a

memory during this period when we had this sort of

29 1 working group that he was involved. And John was 2 involved in that. Harold to some extent. I don't 3 know whether they spoke with --4 BY MR. GIUFFRA: 5 This would be Harold Ickes? 6 Yes. Again, I would be speculating. I 7 would be guessing -- I wouldn't be speculating 8 because I don't know whether they did or not. They 9 were just involved in these matters around this time period. 10 11 0 Let me show you a document. Now, this is 12 something the Committee prepared from a chronology 13 that we were shown by the White House about a week or two ago, and we attempted to transcribe it verbatim. 14 15 It says across the top "DEK 11/10/93." There's a fax 16 line on it, November 10, '93, Wednesday, 10:27. I 17 believe it was found in Mr. Eggleston's files. 18 Off the record. 19 (Discussion off the record.) 20 MR. SNYDER: Would you repeat the pending 21 question? 22 MR. GIUFFRA: Why don't I just restate it. 30 1 BY MR. GIUFFRA: 2 Did there come a time in approximately 3 November 1993 when you were shown a chronology prepared by David Kendall of the Williams & Connolly 4 5 law firm? 6 Α I don't know. 7 Is it possible you might have seen such a 8 chronology? 9 Α Yes. 10 Is it possible you may have provided 11 comments on such a chronology? 12 It's possible. Α 13 Did there ever come a time when you 14 provided information on a chronology to Mr. Kendall 15 that he may have prepared? 16 Again, I don't specifically recall a 17 chronology. There were several chronologies going 18 around. I don't specifically recall a David Kendall

chronology, but I would have responded -- I made

Do you recall any chronologies that

notes on several chronologies. So again, I just

don't remember this particular one.

19

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O

Mr. Neil Eggleston might have prepared in the period 1

2 late '93 or early '94?

- 3 Again, I have some recollection that Neil did a chronology, yes. 4
- 5 The document bears Bates numbers Z 000078.
- 6 79, 0, 81, 82, 83, 84, 85 and then it goes to 126,
- 7 127, 128, 129, 130, 131, 132, 133, 134, 135, 136.
- 8 You may have seen this document previously?
- 9 Is this one document?
- 10 0 It may be several different documents.
- 11 I have the chronology part, which is like
- 12 78, which is redacted, and 79. Yes, I've seen, I
- 13 think, the O and A, for example, which is 80 --
- 14 there's a O and A, it looks like, in 80 and then in
- 15 81 appears to be chronology with different dates on
- them, so I've seen Os and As. Whether I've seen this 16
- 17 particular O and A or not, I don't know.
- 18 Then you have a couple more pages of what 19 looks like a chronology. Then you have something 20 called "Synopsis of Whitewater." I don't remember --
- 21 I don't have a memory of seeing anything that said
- 22 "synopsis."

32

- Q Do you have a recollection whether these 1 2 materials were shared with Mr. Kendall?
- 3 That, I don't know.
- 4 Do you know why the materials were 0 5 prepared?
- 6 No. Then you have something called "the
- 7 Foster suicide and subsequent events" which is a Roman numeral and several paragraphs that look, 8
- again, different than others, though that may be part 9 10 of the synopsis. I don't know. Parts of it I have
- 11 seen, I think; other parts I may have seen, but I
- 12 can't recall. 13

- Do you have any understanding as to who else at the White House might have spoken with
- Mr. Kendall in this period, late '93, '94? 15 16
 - Α No.
- 17 0 The names you just ticked off -- the people who were on the Whitewater response team? 18
- The response team I would have thought 19 would have had contact with him. I don't know who 20 21 else.
- 22 Do you know whether he ever attended any 0

33 1 meetings of the Whitewater response team? 2 A Again, I have a memory of either he being 3 there, one of his associates being there, yes, or 4 them being on the other end of the speakerphone and 5 it may have been one time they were there or one time 6 they were on the other end of the speakerphone. 7 Other than the meeting you identified sometime before March of '94, can you recall any 8 9 other meetings that you or yourself or the President 10 or First Lady attended? 11 MR. KRAVITZ: Can you state that again? 12 BY MR. GIUFFRA: 13 I'll rephrase the question. Other than the 14 meeting you identified --15 Which I thought Mr. Nussbaum attended. 16 -- prior to March '94, do you recall any other meetings that you attended, Mr. Kendall 17 attended, the President attended and the First Lady 18 attended? 19 20 Α Related to Whitewater? 21 Q Yes. 22 A No. 34 1 Any other meetings you might have attended 2 related to Whitewater/Madison? 3 (Witness conferred with counsel.) 4 THE WITNESS: No. 5 BY MR. GIUFFRA: 6 Relating to any of the subjects identified 0 7 in Senate Resolution 120? 8 Α No. 9 0 Do you recall where the meeting you 10 attended with Mr. Nussbaum, Mr. Kendall, the 11 President or the First Lady was held? 12 In the residence. A 13 Do you know whether anyone took any notes 0 at that meeting? 14 15 Α No 16 If I ask any questions about the substance 17 of it, your attorney would interject the 18 attorney-client privilege? 19 MR. SNYDER: Yes. 20 BY MR. GIUFFRA:

At that time, were you serving as an

attorney for the President and First Lady?

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I believe I have an attorney-client
 1
2
    privilege with the Clintons, yes, and I believe I had
    it at that time and had it before that and I had it
 3
4
    after that
 5
            And that's for all the reasons you've
 6
    previously stated on the record?
7
            Yes
        A
8
            MR. SNYDER: As well as the reasons, I
9
    think, articulated in more detail in the filing made
    by Williams & Connolly relating to the privilege
10
11
    issues.
12
            BY MR. GIUFFRA:
             Let me show you another document that bears
13
        0
    Bates number CGE 12286 forward to CGE 12294 and it
14
15
    has several pages and attachments. Have you ever
    seen this document before?
16
17
             Yes.
        Α
18
             When was the first time you saw it?
        0
19
        Α
             This morning.
20
        Q
            Never saw it before?
21
            No.
        Α
22
             Let me show you another document that bears
                                                            36
    Bates numbers S 12579, 12580. It's a March 2nd
 1
 2
    letter --
 3
            MR. KRAVITZ: March 2, what year?
 4
            MR. GIUFFRA: 1994.
            BY MR. GIUFFRA:
 5
 6
        O James Carville is the signatory. It's a
 7
    draft from The New York Times and has handwriting
 8
    across the top.
 9
        Α
             Yes.
10
             What can you tell us about this letter?
        O
11
             Apparently -- apparently at one point I saw
12
     it, made some comments on it.
13
             There's some handwriting of yours on the
     right-hand side. What is that handwriting?
14
15
             It says "factually okay, but the timing may
     be bad after Web. Bruce." That's up there. Down
16
17
     here I circled the word "borrowers" and said "as far
     as I know, the Clintons were not borrowers."
18
19
             When was the first time you heard that
     Mr. Hubbell might have difficulties with the Rose Law
20
     Firm with regard to his billing disbursements?
21
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A I have no idea. I mean, I'm trying to --

37 1 Would it have been before year end 1993 or 2 after year end 1993? 3 It would have been around the time it was 4 public, but I can't tell you when that is. 5 Do you recall who would have told you about it? 6 7 No. I may have read it in the paper. I 8 don't have any memory of anybody telling me 9 independently of reading about it. I can't recall 10 quite how it became a public issue, so I'm having some trouble putting it into any sort of context. 11 12 Q Let me show you a documents which bears 13 Bates number S 12529 through S 12538. Have you seen 14 this document before? 15 Yes. Α 16 0 And when was the first time you saw this 17 document? 18 After it was made public. Α So in the last month or so? 19 0 20 Α Yes 21 0 Have you ever discussed this document with 22 Mr. Kennedy? 38 No. 1 Α 2 Other than your lawyer, have you discussed 3 this document with anyone? 4 No. The substance of it? 5 Yes. 0 6 Α No. 7 MR. KRAVITZ: Do you mean to include the 8 handwritten version as well, Bob, in those 9 questions? 10 MR. GIUFFRA: There is a handwritten 11 version for ease of reference, and speeding the 12 deposition up, I was going to stick with the 13 typewritten version although there are some slight 14 distinctions between the two. 15 BY MR. GIUFFRA: 16 I can show you the handwritten version and ask you about that. This bears Bates number 12517 17

it, but we didn't discuss it.

O Within the last month?

Yeah. I've not discussed the substance of

it. I sent a copy of this to Jim Lyons when I got

through 12528.

18

19

20

21

39 1 Yeah. I mean, he just simply -- when he 2 heard that it was being released, he asked me if I 3 had a copy. I told him I did, and I sent it to him, 4 but other than that, I hadn't talked to him about it. 5 About how long did this meeting take? If I was guessing, I would say three or 6 7 four hours. I have some memory that we sent out for 8 sandwiches, so I think it started sometime in the 9 morning and ended sometime after lunch. 10 Did Mr. Lyons and Mr. Engstrom fly to 11 Washington for the meeting? 12 They were at the meeting. I assume they 13 flew. 14 But did they come just for the meeting? 0 15 Α Again, I don't have any idea. 16 0 Was anybody else supposed to attend the meeting, but did not for some reason? 17 18 Not that I'm aware of. Α 19 0 Do you know if Mr. Blair was invited to 20 attend? 21 Α I do not. 22 0 Do you know if Mr. Hubbell was invited to 40 attend? 1 2 A I do not. 3 0 Do you know if Mrs. Thomases was invited to 4 attend? 5 I do not. Α 6 0 Do you know if Mr. Barnett was invited to 7 attend? 8 Α Barnett? 9 0 Barnett of the Williams & Connolly law 10 firm. 11 No, I do not. I didn't believe that Bob 12 Barnett was employed until after this, but anyway, 13 no. 14 And the meeting was held at Williams & 0 15 Connolly? 16 MR. SNYDER: He was there. Bob Barnett? 17 MR. GIUFFRA: Let's go off the record. 18 (Discussion off the record.)

think I went in to Bob Barnett's office before webegan this meeting, and he told me what a great guy

Barnett, yes. I think Bob was not -- actually, I

THE WITNESS: I was thinking of Bennett.

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1 David Kendall was. But I think clearly by this 2 point, he had made a judgment that because of his wife's position he should not be involved. So I 3 4 would be surprised if he was invited to attend because he was certainly disengaging himself from his 5 6 representation at that point. Sorry. 7 BY MR. GIUFFRA: 8

Are you aware that in releasing these documents, the White House provided to the press a version that contained a key indicating where the information set forth within the notes came from?

Yes.

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Did you participate in the creation of that 0 kev?

No.

Q Did you participate in the gathering --

Well, some of the references were to my documents, so to the extent I wrote the documents that are referenced in it. I participated in it. But no, I did not participate in doing the key.

Do you know whether the newspaper articles that are referenced within the key, were they in your

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possession at the time of the meeting?

MR. SNYDER: All of it?

MR. GIUFFRA: Yes.

THE WITNESS: Interesting. I've read all of them since then. I think I did have all of them at the time of the meeting.

BY MR. GIUFFRA:

You think that you probably personally had copies of all the newspaper articles that are referenced in the key that was provided by the White House to the press?

The index -- well, I did not have the National Journal article at the time of the meeting since it wasn't published until February of '94. I either had or had read all the other articles. I know I would have had the article on the 8th. Whether I had Gwen Ifill's article follow-up on the 9th, I know I read it during the campaign, but I don't know if I would have physically had it.

As of November 5, 1993, you would have been the primary repository for Whitewater-related

articles at the White House?

1 A Probably.

Q You would have been the person who had this information, people who were attending the meeting?

A I'm sorry.

Q Of the people who attended the November 5 meeting, you would probably have been the person who had all the articles?

A Yeah, Jim Lyons may have kept most of them too, but yes, I think that's true.

Q Did you have a subscription to the Arkansas Democrat Gazette at this time?

12 A Yes.

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Q All the other papers you would have receiving on daily copies?

15 A Right.

O Or weekly, depending on the weeklies?

17 A Right.

18 Q Who ran this meeting?

A I think probably Kendall.

Q At the outset of the meeting, did

21 Mr. Kendall state what he believed to be the purpose

22 of the meeting?

44

A Well, again, in looking at the notes, the
notes refresh my memory that I think he did. I don't
have independent recollection of who said what where,
but my understanding is that he says that the first
four references are his and that's consistent with
what I remember.

Q And what is your recollection with regard to who was to gather the facts?

9 I think partially what we were doing at 10 that meeting was gathering the facts. I mean, I think he was, in effect, saying I need to gather all 11 12 the facts so it was gathering -- he was the gatherer, 13 if you will. I think most of this was what he what 14 he was saying he needed to do. He was coming on 15 board, getting up to speed. This is what he had to 16 do in order to represent the Clintons.

Q Was the purpose of gathering the facts to allow him to respond solely to press inquiries or for other purposes?

A He had a client to represent. I think he was representing his client.

Q Did Mr. Nussbaum indicate to you what he

1 believed the purpose of the meeting was?

A I don't have any independent recollection of it, no.

Q Now, in the handwritten version of this document, page 12517, there's a reference after it which says "gather the facts to chronologies, et cetera." Do you know what that refers to?

A No. I mean, I can speculate, but no.

Q If you were to speculate, what would you say?

A Well, basically what is below here is a chronology. I mean, we went through --

Q Was there a discussion that Mr. Kendall would prepare a chronology and send it back to you?

A Again, I don't remember that there was a specific -- there was a goal of a specific document that was being produced. I think we went through the chronology of what happened as part of the fact gathering. So I don't remember that being a task, that there would be a chronology prepared.

Q The reference to "try to find out what's going on in investigation," do you know what that

refers to?

2 A I know what the words mean. I don't 3 know --

Q Was there any discussion that you needed to find out what was going on in the investigation at the meeting?

A No. I mean, I have a sense that again, we had been told -- it was public that there were referrals and that was why David Kendall had been hired and he was -- I think part of what he thought his responsibility was was to find out what was going on.

Q Was there any discussion at this meeting of the fact that on October 14, 1993 there had been a meeting involving Ms. Hanson and Mr. Nussbaum and Mr. Eggleston and I think yourself as well?

A Other than I think that probably I related the issue that came up in that meeting -- in this meeting, but I don't think there was an independent discussion or independent reference to the meeting. There are notes. If you, for example, go to --

O 12530?

48

34 is what I was referring to. "Charles 1 2 Peacock, proceeds went from Charles to Clinton 3 campaign, 3000, 12,000 could all come from Charles Peacock loan. 1500 per election," all of that is a 4 5 reference to what Jeff Gerth's question that was the 6 cause for the October 14th meeting was. So we went over the factual parts of it, but I don't believe we 7 discussed that there was a meeting. 8 Was there any discussion of anything that 9 10 occurred at the October 14 meeting at this meeting on 11 November 5? 12 A I don't recall. I mean, are you talking 13 about --14 0 The meeting with DeVore and Hanson and 15 Steiner? 16 We said we met with DeVore. Steiner, Hanson Α 17 at the White House on the 14th, that we talked about 18 the meeting as opposed to the substance of the 19 meeting? 20 0 Let's do both. Do you recall any discussion of the fact that you had the meeting? 21 22 I don't recall any, no, but I must tell you what I recall is limited by these notes primarily 2 because I don't have independent memory of what was 3 said. 4 0 Do you recall any discussion of the fact --

5 strike that.

Did you bring any notes that you took of the October 14 meeting to this November 5 meeting?

I don't think so.

6

7

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9 Do you recall referencing those notes 0 10 during the meeting?

I don't remember referencing the notes. I remember referencing the information in the notes. I remember -- I see it here.

The information of your notes of the --

No, no. I see -- the same information that is in my notes of the October 14th meeting is reflected in these notes. So I clearly referenced the subject of the discussion. Now, I don't believe

19 I referenced that I had notes or that there was a

20 meeting. I think I just simply in referencing the

facts, what the press was looking at, what the issues 21

22 were, I related that one of the issues was where

- 1 these four checks came from from the 1985 fundraiser,
- 2 and I went through what Gerth's allegations were as
- 3 to where that information came from or where those 4 checks came from
- Q Do you recall any discussion at the meeting of the fact that there actually were RTC criminal referrals in which the Clintons were named as
- 8 witnesses?9 A Again, by this point, I think that was a
- 10 given.

 11 O But I mean, there's a difference between
- 11 Q But I mean, there's a difference between 12 the fact that it may be reported in the newspapers
- 13 and the fact that you were advised of the existence
- 14 of such referrals by people at the Treasury
- 15 Department.
- A No. I think it was a given that there were referrals that mentioned the Clintons, but I don't
- 18 think there was a discussion about the fact that Jean
- 19 Hanson had told Bernie about these referrals.
- Q Do you recall any discussion of Jean Hanson at this meeting?
- 22 A No.

50

- 1 Q Do you recall any discussion of Roger 2 Altman at this meeting?
- 3 A No.
- Q Do you recall any discussion of Mr. DeVore at this meeting?
- 6 A No.
- Q Do you recall any discussion of anybody from the Treasury Department at this meeting?
- 9 A No.
- 10 Q Any discussion of anybody at the RTC at 11 this meeting -- why don't I get more specific.

Do you recall any discussion of Ellen Kulka at this meeting?

- 14 A No.
- Q Do you recall any discussion of Jean Lewis at this meeting?
- 17 A That's the one -- I was trying to see if
- 18 there's a reference anywhere in this to Jean Lewis,
- 19 but no. I mean, there was no reference to Jean Lewis
- 20 as Jean Lewis. There may have been a reference that
- 21 Jean Lewis was the person at the RTC who did the
- 22 referrals. But again, I don't know.

1	MR. KRAVITZ: I don't remember what page
2	it's on. There is some reference in the notes to
3	people at the RTC who were trying to get the
4	Clintons. I don't know if that may be what you're
5	referring to.
6	MR. GIUFFRA: We'll get to that.
7	THE WITNESS: Again, I don't remember
8	specifically whether Jean Lewis was mentioned or not
9	mentioned.
10	BY MR. GIUFFRA:
11	Q Did you do you recall whether anyone at
12	the meeting brought any documents with them to the
13	meeting?
14	A I believe I did.
15	Q What documents do you recall bringing to
16	the meeting?
17	A I don't recall bringing them. So
18	independently, I believe that I brought some
19	International Paper documents, and I believe I
20	brought the checks.
21	Q That would be the campaign contribution
22	checks from the '85 fundraiser?
	52
	32
1	A Yes.
2	A Yes. Q And the International Paper documents would
2 3	A Yes. Q And the International Paper documents would be specifically what documents?
2 3 4	A Yes. Q And the International Paper documents would be specifically what documents? A I believe by then I had a copy of the
2 3 4 5	A Yes. Q And the International Paper documents would be specifically what documents? A I believe by then I had a copy of the warranty deed, the mortgage. I don't know if I had
2 3 4 5 6	A Yes. Q And the International Paper documents would be specifically what documents? A I believe by then I had a copy of the warranty deed, the mortgage. I don't know if I had the foreclosure or not.
2 3 4 5 6 7	A Yes. Q And the International Paper documents would be specifically what documents? A I believe by then I had a copy of the warranty deed, the mortgage. I don't know if I had the foreclosure or not. Q Did you provide copies of these documents
2 3 4 5 6 7 8	A Yes. Q And the International Paper documents would be specifically what documents? A I believe by then I had a copy of the warranty deed, the mortgage. I don't know if I had the foreclosure or not. Q Did you provide copies of these documents to Mr. Kendall?
2 3 4 5 6 7 8 9	A Yes. Q And the International Paper documents would be specifically what documents? A I believe by then I had a copy of the warranty deed, the mortgage. I don't know if I had the foreclosure or not. Q Did you provide copies of these documents to Mr. Kendall? A I think so.
2 3 4 5 6 7 8 9	A Yes. Q And the International Paper documents would be specifically what documents? A I believe by then I had a copy of the warranty deed, the mortgage. I don't know if I had the foreclosure or not. Q Did you provide copies of these documents to Mr. Kendall? A I think so. Q That would include the checks as well as
2 3 4 5 6 7 8 9 10 11	A Yes. Q And the International Paper documents would be specifically what documents? A I believe by then I had a copy of the warranty deed, the mortgage. I don't know if I had the foreclosure or not. Q Did you provide copies of these documents to Mr. Kendall? A I think so. Q That would include the checks as well as the International Paper documents?
2 3 4 5 6 7 8 9 10 11 12	A Yes. Q And the International Paper documents would be specifically what documents? A I believe by then I had a copy of the warranty deed, the mortgage. I don't know if I had the foreclosure or not. Q Did you provide copies of these documents to Mr. Kendall? A I think so. Q That would include the checks as well as the International Paper documents? A Yes.
2 3 4 5 6 7 8 9 10 11 12 13	A Yes. Q And the International Paper documents would be specifically what documents? A I believe by then I had a copy of the warranty deed, the mortgage. I don't know if I had the foreclosure or not. Q Did you provide copies of these documents to Mr. Kendall? A I think so. Q That would include the checks as well as the International Paper documents? A Yes. Q Was anyone contacted by phone or fax during
2 3 4 5 6 7 8 9 10 11 12 13	A Yes. Q And the International Paper documents would be specifically what documents? A I believe by then I had a copy of the warranty deed, the mortgage. I don't know if I had the foreclosure or not. Q Did you provide copies of these documents to Mr. Kendall? A I think so. Q That would include the checks as well as the International Paper documents? A Yes. Q Was anyone contacted by phone or fax during the meeting, to the best of your recollection?
2 3 4 5 6 7 8 9 10 11 12 13 14 15	A Yes. Q And the International Paper documents would be specifically what documents? A I believe by then I had a copy of the warranty deed, the mortgage. I don't know if I had the foreclosure or not. Q Did you provide copies of these documents to Mr. Kendall? A I think so. Q That would include the checks as well as the International Paper documents? A Yes. Q Was anyone contacted by phone or fax during the meeting, to the best of your recollection? A Not that I recall.
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16	A Yes. Q And the International Paper documents would be specifically what documents? A I believe by then I had a copy of the warranty deed, the mortgage. I don't know if I had the foreclosure or not. Q Did you provide copies of these documents to Mr. Kendall? A I think so. Q That would include the checks as well as the International Paper documents? A Yes. Q Was anyone contacted by phone or fax during the meeting, to the best of your recollection? A Not that I recall. Q Did anyone attend the meeting by conference
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17	A Yes. Q And the International Paper documents would be specifically what documents? A I believe by then I had a copy of the warranty deed, the mortgage. I don't know if I had the foreclosure or not. Q Did you provide copies of these documents to Mr. Kendall? A I think so. Q That would include the checks as well as the International Paper documents? A Yes. Q Was anyone contacted by phone or fax during the meeting, to the best of your recollection? A Not that I recall. Q Did anyone attend the meeting by conference call that you can recall?
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18	A Yes. Q And the International Paper documents would be specifically what documents? A I believe by then I had a copy of the warranty deed, the mortgage. I don't know if I had the foreclosure or not. Q Did you provide copies of these documents to Mr. Kendall? A I think so. Q That would include the checks as well as the International Paper documents? A Yes. Q Was anyone contacted by phone or fax during the meeting, to the best of your recollection? A Not that I recall. Q Did anyone attend the meeting by conference call that you can recall? A No.
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19	A Yes. Q And the International Paper documents would be specifically what documents? A I believe by then I had a copy of the warranty deed, the mortgage. I don't know if I had the foreclosure or not. Q Did you provide copies of these documents to Mr. Kendall? A I think so. Q That would include the checks as well as the International Paper documents? A Yes. Q Was anyone contacted by phone or fax during the meeting, to the best of your recollection? A Not that I recall. Q Did anyone attend the meeting by conference call that you can recall? A No. Q Do you recall whether the meeting was
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20	A Yes. Q And the International Paper documents would be specifically what documents? A I believe by then I had a copy of the warranty deed, the mortgage. I don't know if I had the foreclosure or not. Q Did you provide copies of these documents to Mr. Kendall? A I think so. Q That would include the checks as well as the International Paper documents? A Yes. Q Was anyone contacted by phone or fax during the meeting, to the best of your recollection? A Not that I recall. Q Did anyone attend the meeting by conference call that you can recall? A No. Q Do you recall whether the meeting was taped?
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19	A Yes. Q And the International Paper documents would be specifically what documents? A I believe by then I had a copy of the warranty deed, the mortgage. I don't know if I had the foreclosure or not. Q Did you provide copies of these documents to Mr. Kendall? A I think so. Q That would include the checks as well as the International Paper documents? A Yes. Q Was anyone contacted by phone or fax during the meeting, to the best of your recollection? A Not that I recall. Q Did anyone attend the meeting by conference call that you can recall? A No. Q Do you recall whether the meeting was

53 1 0 That's one of the lessons. 2 Off the record. 3 (Discussion off the record.) 4 BY MR. GIUFFRA: 5 0 Was there a written agenda for this 6 meeting? 7 Α Not that I remember. 8 0 At the conclusion of the meeting, was 9 anyone at the meeting tasked to take any action? 10 Α Not that I recall. 11 0 Was anyone advised to contact Mr. Blair? 12 Α I don't recall that. 13 0 Anyone advised to contact the President? 14 Α I don't recall that. 15 0 Was anyone asked to take any action with 16 regard to any government investigation at the 17 meeting? 18 Well, again the notes reflect that at some 19 point I think David Kendall indicated he thought he 20 could find out what happened to the airplane through 21 the FAA. 22 That would be the airplane that was swapped 54 1 for various --2 Part of the purchase price on the 3 remaining -- on the 24 Whitewater lots. 4 Do you recall any other discussion of the 5 need to contact regulators or investigators at the meeting? 6 7 Α 8 Do you recall any discussion of the SBA, 9 the need to contact the SBA at this meeting? 10 Α No. 11 Do you recall Mr. Eggleston being given any 12 instruction at this meeting to take any action with 13 regard to the SBA? 14 Α No. 15 And you're aware that there came a time 16 after this meeting where Mr. Eggleston gained certain information from the SBA? 17 18 Α Yes. 19 0 Did he -- do you know whether he ever 20 discussed that information with Mr. Kendall?

Not that I'm aware of.

Do you know whether he ever provided a copy

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855 55 of that information to Mr. Kendall? Did you ever discuss that information that was contained in the SBA referral with Mr. Kendall? Again, I do in these notes, so beyond what's reflected in these notes which came from Jeff Q What I'm focusing on was the material -did there come a time -- I think you previously testified to this -- that the White House obtained certain information from the SBA? Right. Did you ever discuss any of that information with Mr. Kendall? No. I never -- the only thing I ever obtained from the SBA or ever saw from the SBA was a copy of the cover letter, and I have no memory of discussing that with Mr. Kendall. Do you know whether Mr. Eggleston ever discussed the information he obtained from the SBA with Mr. Kendall? 56

1 Was anyone asked at the meeting to find out the status of the RTC investigation into Madison, 2 3 Whitewater and the Rose Law Firm? 4

No. I mean, no.

No.

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Gerth, no.

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No.

After the meeting, did you have any conversations with Mr. Lyons about what had transpired at the meeting?

Not that I recall.

Not to ask the question twice, but I want to make sure on this. No one was tasked by anyone to ask for any information following this meeting?

A Not that I recall.

Was anyone --0

MR. KRAVITZ: I think he's testified that

Mr. Kendall essentially tasked himself --

BY MR. GIUFFRA:

Other than trying to call the FAA --

I'm sorry. You asked about the RTC investigation. I think in some ways, Kendall tasked

19 20 himself to learn as much as he could about the RTC,

21 but no, I don't believe there was any tasking by

22 Mr. Kendall or by anybody else to anyone other than

57 1 Mr. Kendall basically tasking himself as to what he 2 thought he had to get up to speed. 3 As far as you knew, from this date forward, Mr. Kendall would be the one handling the Clintons 4 5 legal representation with regard to Madison or 6 Whitewater? 7 That's probably broader than I would say. 8 I do believe the President has -- is different than everybody else in that he's always the President and 9 so to say that he would handle everything, obviously, 10 to this day, he doesn't handle everything. But yes, 11 with respect to the representation of the Clintons 12 13 with respect to the RTC referrals and that matter, 14 that would be David Kendall's responsibility. MR. KRAVITZ: Bob, can I ask one or two 15 16 questions because we may run out of time? 17 MR. GIUFFRA: Sure. 18 **EXAMINATION** 19 BY MR. KRAVITZ: 20 On November 5, 1993, did Mr. Kendall or any of the other private attorneys ask any of the White 21 House officials present at the meeting to find out 22 58 any information from government officials about 1 Madison or Whitewater investigations? 2 3 Α No 4 At any time since November 5, 1993, has 5 Mr. Kendall or any of the other private attorneys 6 asked any White House officials, to your knowledge --To my knowledge, no, they never asked me. 7 And I've never had any contact with any federal 8 9 official, state official, for that matter, investigative official about any matter related to 10 11 any of this. 12 **EXAMINATION** 13 BY MR. GIUFFRA: Or have any indirect contact with an 14 investigative official? You obviously spoke to 15

17 Yeah, in response to a press inquiry, and I 18 obviously spoke to Mr. Altman in response to a press 19 inquiry. 20

So all of your contacts with Ms. Hanson,

21 Mr. Altman were all strictly related to press

22 inquiries?

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Ms. Hanson.

The only time I ever spoke to Ms. Hanson about this was at the October 14th meeting. The only time I spoke to Mr. Altman about any of this was in connection with the press inquiry about the meeting that I did not attend but which I've already testified to or which I had notes on.

Let's just go through some of the things that happened with Mr. Kennedy's notes. Before we go too far, was he the only one taking notes that you can recall at the meeting?

I didn't know he was taking notes. I don't recall anybody taking notes at the meeting. I assume Kendall was taking notes. I mean --

Was there anyone else besides Mr. Kendall present at the meeting from his firm?

I don't believe so.

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There's a discussion midway through the first page of the typewritten notes where it says "HRC representation...Beverly Bassett...too much coziness." Do you know what that refers to?

Well, right above it, "brother early and strong supporter." Again, we were commenting on the

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- fact that the press was suggesting that because 1 2 Beverly's brother had been a strong supporter and
- because Beverly had been a supporter, because the 3
- 4 President, then governor, had appointed Beverly, that
- 5 all of that created too cozy a relationship.
 - And there was concern, perhaps, that this might be perceived by the media or by the press as an

issue of concern? I think there were already tons of press

stories that talk about this cozy little political network down in Arkansas, how the political elite and business elite and others knew each other and dealt with each other. And I'm not sure -- I've listened to Al D'Amato and Larry King call each other "Al" and "Larry" and talk about politics in New York and like two guys from Brooklyn. So I'm not sure that it's that much different in Arkansas than it is anywhere. but at least in the press's mind, they thought that everybody knew everybody.

Why was the issue of Mrs. Clinton's representation of Madison raised early in the meeting?

61 1 That was one of the main issues in the 2 campaign. I mean, Jerry Brown accused the President 3 of funneling business to his wife and his wife 4 representing people before state -- representing clients before state agencies and so I don't quite 5 know why it's early in this meeting, other than that 6 7 was one of the two or three main issues --8 Of concern? 0 9 Well, that come up in the press. Α Do you know who would have raised the 10 0 11 issue? 12 No. 13 Do you know a Rick Massey? 0 I don't know him well. I know who he is. 14 Α 15 Have you ever spoken to Mr. Massey about 0 16 anything having to do with the Rose Law Firm's 17 representation of Madison Guaranty? 18 I do not believe so. I don't think so. 19 Have you ever received any reports with 20 regard to statements Mr. Massey has made with regard 21 to the Rose Law Firm's representation of Madison 22 Guaranty? 62 Other than what's been quoted in the 1 Α 2 press? 3 Yes. 0 4 I don't believe so. Α 5 If you could turn -- let me just ask you, at the bottom of the first page of the typed notes is 6 a reference to the FBI issuing a subpoena and taking 7 records of a municipal judge named Hale. It says 8 also that "VF killed himself" and it says "factor" 9 below that. What do you recall about that discussion 10 in the course of the meeting? 11 Again, I can just tell you what the general 12

13 discussion was, and that was the press were asking -apparently, the subpoena for David Hale's office was 14 issued on the afternoon of July the 20th, though I 15 think the subpoena was actually executed on the 21st, 16 and the press had been asking questions about that 17 and asking whether there was any connection, whether 18 or not -- I think there was some question as to 19 20 whether or not any of the conversations Vince had could have related to that. But I think again, it 21 was just something that the press was speculating 22

about, was it a factor.

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Q There was no discussion at the meeting that anyone at the meeting believed that the issuance of this subpoena -- strike that.

Was there any discussion amongst the participants at the meeting, other than for press accounts, that the subpoena might have been a factor with regard to Mr. Foster's suicide?

A No.

Q And as far as you know, Mr. Foster -- strike that.

Do you have any understanding as to whether Mr. Foster was aware of the subpoena prior to his death?

MR. KRAVITZ: Let me interrupt. As long as we're just referring to the notes, I haven't objected. But my understanding and I think the record is clear that there wasn't a subpoena. It was a search warrant, so if you're asking a question not related to the notes.

THE WITNESS: Right, search warrant.

MR. GIUFFRA: Search warrant.

THE WITNESS: No. No, I have no knowledge. I do not believe that Vince knew, but I obviously don't know what Vince knew, but I have never seen anything to suggest that he had knowledge or could have had knowledge.

BY MR. GIUFFRA:

Q This would just be speculation?

A By the press.

Q Have you ever seen, other than this morning, billing records of the Rose Law Firm?

A No.

Q Do you recall any discussion at this

meeting --

A Related to this?

Q Relating to Madison Guaranty.

A No. The Rose Law Firm has represented my law firm in the past so I'd seen billing records related to that.

- Q Do you recall any discussion during this meeting of billing records of the Rose Law Firm?
 - A No.

Q It's your testimony you have no knowledge

as to the circumstances surrounding the discovery of 1 the billing records at the White House last week? 2 3

I do not.

And you've never discussed the existence of these billing records -- strike that.

Have you ever discussed the existence of these billing records with Ms. Carolyn Huber?

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0 Have you ever discussed the discovery of these billing records with Ms. Huber?

Α No.

0 Ever discussed the discovery of these billing records with the President?

No

Have you ever discussed the discovery of these billing records with Mrs. Clinton?

No.

Has anyone advised you as to anything to do with the circumstances surrounding the discovery of these billing records other than what you've seen in the press?

No.

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Did you do most of the talking at the meeting with regard to the factual rendition?

If you look at the notes, I think I did the talking maybe for the first half and that Jeff Lyons may have done the talking for the second half.

So up until about which portion of the meeting would you recall --

Again, other people may have had something to say. Kennedy, for example, had knowledge relating to Whitewater dating from his review of some of the records for Mrs. Clinton, but I noticed it start of starts over, frankly, on page 112535, "1978, bought from River 101 development" and on down. Seems to be a walking through of the Lyons report, and I would assume that that was Jim talking. There was also an attachment which I believe Jim drew and used to help walk people through the transactions.

Do you recall him using that attachment during the meeting?

If you asked me that cold, I would have said no. When I saw the attachment, I remember that he drew something out of it, yes.

Q Was there any discussion during this meeting of the fact that Randy Coleman had contacted Bill Kennedy during the summer of 1993 about David Hale?

A Again, I don't recall it. It could have been when we were talking about the SBIC part of this. Kennedy could have mentioned that Coleman had called him, but I don't recall.

Q Was there any discussion during this meeting of the fact that Mr. Hubbell had met with Richard Mayes, who would have been an attorney to Mr. Hale on November 4, 1993?

A No.

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MR. KRAVITZ: Can you repeat that question.

THE WITNESS: I don't know if that's fact. Since I've never heard of it before, whether or not there was any discussion of Web Hubbell meeting with Richard Mayes as an attorney. I've seen Richard Mayes say in the paper in Little Rock that there was

no such meeting, so again, I don't know the factual

22 predicate for that question, but there was no

discussion of it because I had never heard of it.

BY MR. GIUFFRA:

Q Turn your attention to page 12535, midway through. There's a reference to 1986, "Flowerwood --collateral as a maker." Do you know what this refers to?

A Yes.

Q What does it refer to?

A Jeff Gerth told me in the conversation that I had with him that at some point after the original Susan McDougal loan that McDougal had come back and tried to give him a new statement of purpose that included real estate development and Flowerwood specifically. I think if you look at my notes of the Gerth conversation, you'll see all that referenced.

Q Was there any discussion of the alleged missing Hale document relating to this Flowerwood issue?

A I don't know. I know that my notes with Jeff Gerth said that he never substituted the statement of purpose, if that's what you're referring to. And therefore, it was not among the documents

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- that the FBI picked up. So since I knew that, I 1 could have said it. But since it's not reflected 2 here. I don't remember seeing it. But it was 3 certainly something that I knew from my Jeff Gerth 4 5 conversation before this meeting. So I don't know 6 how to answer it. I could have said anything I 7 knew. But all I remember is what's reflected here.
 - Let me take you back to page 12530. At the very bottom of the page, it says "now luncheon restaurant "
- 11 Α Yes

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- 12 What does that refer to? 0
 - I have no idea. At one time -- well, I don't recall.
 - What were you about to say, at one time --I know your lawyer probably just kicked you.
- 16 17 No. If you remember my notes, there's a 18 reference to -- The New York Times was preparing an 19 affidavit for Mr. Hale and that if anything changed from what Mr. Hale had previously told Jeff Gerth to 20 that affidavit, if he changed any wording, that they
- 21 22

were going to walk away from this story. You know,

part of that story was that it was the 145th Street 1

trailer park. He went in there and Clinton was in 2

jogging shorts, and he jogged out of there. You have 3

4 to know Little Rock, but the 145th trailer park is a 5 good 10, 12, maybe 15 miles out of Little rock. It

is probably very unlikely that that would make any 6

7 sense. Gerth or somebody may have told me that he

now was changing the location of that from 145th 8

9 Street to a lunch. Again --

That Hale was changing the story?

That Hale was changing the story, that he 11 no longer was claiming -- but again, that's what it 12 could refer to. Because of the reference Jeff Gerth 13 had to the Hale affidavit, the New York Times backed 14

15 away. It sounds to me like when you look at all that

together, although I don't have an independent memory 16

- of this, if somebody told me that The New York Times 17
- 18 had ever written David Hale's story, they wrote about
- 19 it because other people were writing about it, but
- they never wrote about it from a first person, we 20
- 21 spent three days doing an interview story and I think
- 22 maybe part of it was because somebody told me David

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1	Hale did change his story and in fact, The New York	
2	Times at that point backed away, as Gerth told me	
3	they would if, in fact, he changed his story.	
4	(Recess.)	
5	BY MR. GIUFFRA:	
6	Q I have a question. On the first page of	
7	the typed notes, there is a reference that says "RLF	
8	answered questions to reconstruction." Do you know	
9	what that refers to?	
10	A Well, RLF, I assume, refers to the Rose Law	
11	Firm. At the time that this came up in the campaign,	
12	I think they did answer questions about what	
13	Hillary's role was with respect to the securities	
14	commissioner matter. And this was she had a	
15	telephone conversation, and her name appeared on two	
16	or three letters which she reviewed.	
17	Q Did you ever have any discussions with	
18	Mrs. Clinton with regard to her preparation of	
19	interrogatories to the Resolution Trust Corporation?	
20	A No.	
21	Q Did you ever have any discussions with the	
22	President about his preparation of interrogatories to	
	Tresident dood in preparation of interrogatories to	
		72
1	the Resolution Trust Corporation?	72
1 2	the Resolution Trust Corporation?	72
2	A Repeat that again.	72
2	A Repeat that again. Q Did you ever have any discussions with the	72
2 3 4	A Repeat that again. Q Did you ever have any discussions with the President about his preparation of interrogatories	72
2 3 4 5	A Repeat that again. Q Did you ever have any discussions with the President about his preparation of interrogatories with the Resolution Trust Corporation?	72
2 3 4 5 6	A Repeat that again. Q Did you ever have any discussions with the President about his preparation of interrogatories with the Resolution Trust Corporation? (Witness conferred with counsel.)	72
2 3 4 5 6 7	A Repeat that again. Q Did you ever have any discussions with the President about his preparation of interrogatories with the Resolution Trust Corporation? (Witness conferred with counsel.) A No.	72
2 3 4 5 6 7 8	A Repeat that again. Q Did you ever have any discussions with the President about his preparation of interrogatories with the Resolution Trust Corporation? (Witness conferred with counsel.) A No. Q Did you ever discuss with Mr. Kendall	72
2 3 4 5 6 7 8 9	A Repeat that again. Q Did you ever have any discussions with the President about his preparation of interrogatories with the Resolution Trust Corporation? (Witness conferred with counsel.) A No. Q Did you ever discuss with Mr. Kendall anything having to do with the preparation of sworn	72
2 3 4 5 6 7 8 9	A Repeat that again. Q Did you ever have any discussions with the President about his preparation of interrogatories with the Resolution Trust Corporation? (Witness conferred with counsel.) A No. Q Did you ever discuss with Mr. Kendall anything having to do with the preparation of sworn interrogatories by the President or First Lady?	72
2 3 4 5 6 7 8 9 10 11	A Repeat that again. Q Did you ever have any discussions with the President about his preparation of interrogatories with the Resolution Trust Corporation? (Witness conferred with counsel.) A No. Q Did you ever discuss with Mr. Kendall anything having to do with the preparation of sworn interrogatories by the President or First Lady? A No.	72
2 3 4 5 6 7 8 9 10 11 12	A Repeat that again. Q Did you ever have any discussions with the President about his preparation of interrogatories with the Resolution Trust Corporation? (Witness conferred with counsel.) A No. Q Did you ever discuss with Mr. Kendall anything having to do with the preparation of sworn interrogatories by the President or First Lady? A No. Q Do you know what the reference to	72
2 3 4 5 6 7 8 9 10 11 12 13	A Repeat that again. Q Did you ever have any discussions with the President about his preparation of interrogatories with the Resolution Trust Corporation? (Witness conferred with counsel.) A No. Q Did you ever discuss with Mr. Kendall anything having to do with the preparation of sworn interrogatories by the President or First Lady? A No. Q Do you know what the reference to "reconstruction" "RLF did reconstruction" on the	72
2 3 4 5 6 7 8 9 10 11 12 13 14	A Repeat that again. Q Did you ever have any discussions with the President about his preparation of interrogatories with the Resolution Trust Corporation? (Witness conferred with counsel.) A No. Q Did you ever discuss with Mr. Kendall anything having to do with the preparation of sworn interrogatories by the President or First Lady? A No. Q Do you know what the reference to "reconstruction" "RLF did reconstruction" on the first page of these typed notes refers to?	72
2 3 4 5 6 7 8 9 10 11 12 13 14 15	A Repeat that again. Q Did you ever have any discussions with the President about his preparation of interrogatories with the Resolution Trust Corporation? (Witness conferred with counsel.) A No. Q Did you ever discuss with Mr. Kendall anything having to do with the preparation of sworn interrogatories by the President or First Lady? A No. Q Do you know what the reference to "reconstruction" "RLF did reconstruction" on the first page of these typed notes refers to? A No. I don't know why that word was used.	72
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16	A Repeat that again. Q Did you ever have any discussions with the President about his preparation of interrogatories with the Resolution Trust Corporation? (Witness conferred with counsel.) A No. Q Did you ever discuss with Mr. Kendall anything having to do with the preparation of sworn interrogatories by the President or First Lady? A No. Q Do you know what the reference to "reconstruction" "RLF did reconstruction" on the first page of these typed notes refers to? A No. I don't know why that word was used. I don't remember that word being used.	72
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17	A Repeat that again. Q Did you ever have any discussions with the President about his preparation of interrogatories with the Resolution Trust Corporation? (Witness conferred with counsel.) A No. Q Did you ever discuss with Mr. Kendall anything having to do with the preparation of sworn interrogatories by the President or First Lady? A No. Q Do you know what the reference to "reconstruction" "RLF did reconstruction" on the first page of these typed notes refers to? A No. I don't know why that word was used. I don't remember that word being used. Q Do you know if there was a reconstruction	72
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18	A Repeat that again. Q Did you ever have any discussions with the President about his preparation of interrogatories with the Resolution Trust Corporation? (Witness conferred with counsel.) A No. Q Did you ever discuss with Mr. Kendall anything having to do with the preparation of sworn interrogatories by the President or First Lady? A No. Q Do you know what the reference to "reconstruction" "RLF did reconstruction" on the first page of these typed notes refers to? A No. I don't know why that word was used. I don't remember that word being used. Q Do you know if there was a reconstruction of Rose Law Firm billing records?	72
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19	A Repeat that again. Q Did you ever have any discussions with the President about his preparation of interrogatories with the Resolution Trust Corporation? (Witness conferred with counsel.) A No. Q Did you ever discuss with Mr. Kendall anything having to do with the preparation of sworn interrogatories by the President or First Lady? A No. Q Do you know what the reference to "reconstruction" "RLF did reconstruction" on the first page of these typed notes refers to? A No. I don't know why that word was used. I don't remember that word being used. Q Do you know if there was a reconstruction of Rose Law Firm billing records? MR. SNYDER: Billing records?	72
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20	A Repeat that again. Q Did you ever have any discussions with the President about his preparation of interrogatories with the Resolution Trust Corporation? (Witness conferred with counsel.) A No. Q Did you ever discuss with Mr. Kendall anything having to do with the preparation of sworn interrogatories by the President or First Lady? A No. Q Do you know what the reference to "reconstruction" "RLF did reconstruction" on the first page of these typed notes refers to? A No. I don't know why that word was used. I don't remember that word being used. Q Do you know if there was a reconstruction of Rose Law Firm billing records? MR. SNYDER: Billing records? MR. GIUFFRA: Yes, or any kind of records.	72
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19	A Repeat that again. Q Did you ever have any discussions with the President about his preparation of interrogatories with the Resolution Trust Corporation? (Witness conferred with counsel.) A No. Q Did you ever discuss with Mr. Kendall anything having to do with the preparation of sworn interrogatories by the President or First Lady? A No. Q Do you know what the reference to "reconstruction" "RLF did reconstruction" on the first page of these typed notes refers to? A No. I don't know why that word was used. I don't remember that word being used. Q Do you know if there was a reconstruction of Rose Law Firm billing records? MR. SNYDER: Billing records?	72

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1 Q Yes.
2 A Yes.
3 Q When was that?
4 A In the responses to the interrogatories to

A In the responses to the interrogatories to the RTC, I saw a reconstruction or a recap -- I'm not sure what it was called -- of the Rose Law Firm billing records with respect to Madison.

Q These are in Mrs. Clinton's interrogatories?

A Yes.

Q And again, you had no role in the drafting of those interrogatories?

A No.

Q This is only based on your review of the interrogatories after they were signed?

A Right.

Q You didn't review any drafts of the interrogatories from either the President or the First Lady?

20 A No.

Q Let's turn on the typed -- strike that. Let's turn to page 12530. There's a

reference to Les Patton midway through the discussion of RTC criminal referrals and David Hale. Do you know why that was --

4 A No.

Q The next page, 12531 --

A I know who Les Patton is. I don't know why it appears at that point in here.

Q There's a reference at the top of page 12531 it says "Steve Smith filed for BR." Do you know the context in which Mr. Smith's name came up during the course of the November 5 meeting?

A No, other than obviously the check or the Capital Services Management loan to Steve Smith came up in the Jeff Gerth conversation, and I don't know whether this follows on the Jeff Gerth conversation. And I knew at some point Steve Smith had filed for bankruptcy, so I don't know if I was -- I didn't know whether that loan was discharged from bankruptcy. I don't quite know -- that could have been what the

19 don't quite know -- that could have been what the 20 reference was.
21 O Was that based on your information that your

Q Was that based on your information that you had independently, or was that information that

75 Mr. Gerth had provided to you? 1 That Steve Smith filed for bankruptcy? No. 2 3 it's independent information. 4 Who is Steve Smith again? 5 Steve Smith is a professor at 6 Favetteville. He was in the Clinton first 7 gubernatorial administration. He later bought, along 8 with Jim McDougal, the Bank of Kingston. 9 Was there any discussion in the meeting of the fact that Mr. Smith was mentioned in RTC criminal 10 11 referrals? RTC criminal referrals? No. I don't think 12 Α 13 I knew that. 14 Any kind of criminal referrals or that he 15 was under investigation? 16 Well, there was -- the only reference I 17 knew to Steve Smith at this time was the Jeff Gerth reference to him in the -- in his interview. So if 18 19 that's an investigation, you know, once -- then I 20 would know that Steve Smith was under investigation. 21 But beyond that, no. Just that one reference. 22 Did there come a time when you learned that 76 Mr. Smith was named in an RTC criminal referral? 1 RTC criminal referral -- I don't think so. 2 3 O Any other kind of criminal --Well, he pled to a misdemeanor. 4 Α 5 That would be the first time you knew that 6 he was under investigation? 7 Α When he pled? 8 Yes. 0 9 Yes. I think I knew he was under 10 investigation shortly before he pled, but it was in 11 connection with his -- I mean, there were stories in the Arkansas paper about -- that Steve Smith was 12 13 going to plead. There was speculation as to when, 14 three or four or five weeks before he actually pled. 15 Q Do you know what the reference "bought Bank of Kingston with McDougal"? 16 Steve Smith and McDougal bought the Bank of 17 18 Kingston, so I assume it was Steve Smith bought the Bank of Kingston with McDougal. 19 20 Q Let's go down two typed lines where it says

"only lines of communication through Sam Heuer." Do

you know what that refers to?

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Well, right -- at some point, you couldn't 1 2 talk -- again, nobody was having any luck back in the 3 late '80s talking with McDougal. If you look at 4 Hillary's correspondence, you will note that she 5 tried, and I think we were walking through this, that 6 if at some point you couldn't talk to McDougal, the 7 only way you could communicate with McDougal was 8 through his attorney. Again, I don't know exactly 9 what the context was. 10 Right above it, it says "McDougal, powers 11 of attorney." I think Hillary tried to get power of 12 attorney, sent letters. "Not getting the information needed," she was going to get involved with the 13 purpose of winding down the deals and then as part of 14 15 that. I may have followed on and said you know, it's been very difficult throughout all this to talk --16 for anybody to talk to McDougal and the only way 17 anybody communicates is through Sam. 18 19 Now, the discussion below that, where it says "arrange for 50 percent interest" and then "Jim 20 Blair." Do you know what that refers to? 21 No. Again, Jim Blair was involved in 22 Α 1 arranging for McDougal to buy the Clintons' interest. He represented the Clintons with respect 2 to that. So again, that could be what that has a 3 4 reference to. 5 The fact that McDougal would buy the Clintons' 50 percent interest in Whitewater 6 7 **Development Corporation?** 8 A Right. 9 And that was something you were trying to 0 do at the end of 1992? 10 A Not me, but the Clintons were, yes. 11 Let's go down to the bottom of the page 12 13 where it says "Blair could have knowledge, could be source of money to allow McD to purchase stock." 14 What does that refer to? 15 16 A It could well be my speculation as to 17 whether or not -- Jim was broke or had no money, lived in a trailer on Social Security --18 19 MR. KRAVITZ: Jim McDougal. THE WITNESS: McDougal. Not Jim Blair. 20 21 Jim Blair is not broke. I think I may have been --

Blair knew McDougal. Blair knew, was working with

Sam. I may have speculated that Blair could have
been the source of the money for McDougal to buy the
Clintons' stock.

BY MR. GIUFFRA:

Q You believe you were the one who probably provided this reference?

A I think I think I'm the only one that could have, yes.

Q Had you spoken to Mr. Blair at any point about the fact that he provided the money to

11 Mr. McDougal --

A No.

Q -- to buy the stock?

A No. I think it was speculation on my part.

Q What was the basis for your speculation that there was an involvement with Mr. Blair with regard to providing Mr. McDougal to buy the stock?

A Well, there was clearly an understanding that Blair was involved in the arranging to sell the interest, and I also knew, in general, McDougals'

21 financial situation and so I think I would have

22 speculated that McDougal didn't have \$1000 to be

paying for stock that had no value, you know. And that therefore, I think I was speculating that Blair could well have -- somebody would probably have provided him the money and Blair could well have provided it to him.

Q Have you ever discussed the transfer of the Clintons' interest in Whitewater with Mr. Blair?

A Yes, in a way.

Q What do you recall about your discussions with Mr. Blair with regard to the Clintons' sale of their interest in Whitewater to Mr. McDougal?

A Well, if you remember, after my meeting with Gerth, I called Jim Blair. There are notes, and one of the questions was what about these corporate records? McDougal claims he never got them. McDougal said it was agreed to that he would get them, so I had a conversation with Jim, at least about that and about the filing of a tax return and

19 the timing of that. So to the extent that that

20 involved the sale of the interest to the Clintons --

21 to the McDougals, I discussed it with Jim, but that's

22 the only reference I had.

		8
1	Q He had not told you that he had given	
2	McDougal \$1000?	
3	A No. The first time I knew for a fact that	
4	he gave McDougal the thousand dollars was when I read	
5	it in Newsweek last week.	
6	Q Immediately above the reference to	
7	Mr. Blair, there's a reference to "3/4 Times	
8	Heuer/Blair contact February 3, '92 involved with VF	
9	trying to arrange sale."	
10	A I read that as "three or four times" as	
11	opposed	
12	MR. KRAVITZ: Did you also read the "2/3"	
13	as "two or three" as opposed to February 3rd?	
14	THE WITNESS: Yes.	
15	BY MR. GIUFFRA:	
16	Q What do you recall about that discussion?	
17	A I don't know. I don't recall anything	
18	about that discussion.	
19	Q Let me call your attention to page 12533.	
20	In the middle of the page it says "after did	
21	reconstruction 2/3, 1992." You don't believe that	
22_	refers to February 3, 1992, or do you think it refers	
,		82
1	to the number of times somebody contacted Heuer?	
2	A Again, let me look at this	
3	MR. SNYDER: Your question now is with	
4	regard to the reference on page 33?	
5	MR. GIUFFRA: My apologies. I'm trying to	
6	rush this.	
7	THE WITNESS: The date February 3 that	
8	page is missing, by the way, I think from here. In	
9	the handwritten copy, mine goes from never mind.	
10 11	Hold on. Maybe it's just an extra page.	
12	BY MR. GIUFFRA:	
	Q That may well be an extra page.	
13 14	A I'm trying to see the date February 3,	
15	1992 has no meaning to me. Every time I've read	
16	that, I've read that as "two to three times" as opposed to a date.	
17	opposed to a date.	
1 /	O That Hause	
1.2	Q That Heuer	
	A Both the Heuer reference and the reference	
19	A Both the Heuer reference and the reference you just I focused on the reference after the	
18 19 20	A Both the Heuer reference and the reference you just I focused on the reference after the reconstruction.	
19	A Both the Heuer reference and the reference you just I focused on the reference after the	

83 1 Whitewater 2 I think that's part of what that is 3 reference to 4 Now, in the White House's version of these 5 notes, the reader is referred to a memo to files that was written by Mr. Foster December 30, 1992 regarding 6 7 his attendance at the December 22, 1992 closing with Blair and -- excuse me, with McDougal and Heuer. 8 You're familiar with that memo? 9 10 Yes 11 0 When was the first time you saw that memo? '95. I don't remember when. 12 Α 13 O Do you recall any discussion at this meeting about obtaining this memo? 14 15 Α No. 16 0 Do you recall any discussion of the meeting 17 at the memo? Of the memo at the meeting? 18 Of the memo at the meeting. Again, I 19 20 apologize for rushing. No, I don't know if anybody knew there was 21 22 a memo, anybody at the meeting. I didn't. 84 1 Q You don't recall any discussion of any need to try and retrieve a copy of this memo from the Rose 2 Law Firm? 3 4 A No. 5 Q The next page, it says across the top "nominal and respectable" --6 7 MR. SNYDER: Which page number? 8 BY MR. GIUFFRA: 9 12532. It says "nominal and respectable plus out of the air." "Out of thin air" is in the 10 11 handwritten version. 12 Okay. 13 What do you recall about that discussion? 14 I think we -- someone said where did the 15 thousand dollars come from, and I think we had sort 16 of a general discussion, I guess, that it seemed not 17 too little, not too much, but basically it was just sort of picked out of the air. 18 You mentioned at the very beginning that 19

the Rose Law Firm's representations of Madison was

one of the issues of major concern.

A No, I didn't.

20

21

1 Q It was an issue that was discussed at the 2 meeting?

12-

was going on.

sort of context for it.

A No, I don't believe that's true. Hillary's involvement with the securities commission, not Madison, in any sort of general sense, but solely with the issue that was raised in the '92 campaign about the securities commission, that was the only part of Madison's representation that I knew was of any concern to anybody.

Q What were some of the other issues of general concern that were discussed at the meeting?

A They're reflected in the notes.

Basically -- you say concern. We were simply walking through all the stuff that was sort of out there. I mean to say that any of this was a concern, I don't think any of it was a concern. This was an attempt for someone who we assumed had not been following it to the same extent that we had been following it or at least I had been following it to sort of know what

I didn't know whether David Kendall knew that in the 1992 campaign, Jerry Brown or the press

had raised this issue about Beverly Bassett. I

didn't know whether he knew anything about any of Jeff Gerth's concern or the David Hale deal. I was just simply trying to sort of unload for him everything that had been out there so he would be able to respond to it or know about it enough so if someone else raised it, he would have at least some

So again, I wouldn't indicate -- I wouldn't use the term that anything we discussed here was a concern. It was simply a dump.

Q Let me call your attention to -- there's a series of names listed after the discussion "nominal, respectable, out of the air." Jim Hamilton, Web Hubbell, Jim Blair, Loretta Lynch, Susan Thomases, Charles James.

A Right. I think all of these are people that were involved at some point to some degree in this issue, when it became an issue in early '92, in March of '92.

Q These are people who worked on the Clinton campaign?

1 A For the most part, yes.

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Kendall.

Q Now, there's a reference "Jim Lyons has work papers." Do you know what that refers to?

A I believe he had the work papers from the Lyons report.

Q And then immediately below that it says "Betsy Wright/Hubbell docs." What does that refer to?

A There were certain documents that Betsy had in her role during the campaign of responding to Arkansas-related matters that after the campaign, she took home with her. At some point Web retrieved those or got them from Betsy. They apparently, according to Web's testimony were stored in his basement when he moved up here for eight or nine months, and then ultimately turned over to David

Q Are you aware of certain files relating to Madison that were transferred to Mr. Kendall by Mr. Hubbell on November 17, 1993?

A I'm clearly familiar with the letter that David Kendall, I guess, or Bob Barnett -- I guess

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David Kendall wrote to the Rose Law Firm saying that these are the documents -- I'm returning your documents and that Kendall either then testified in the Committee or told the press that those documents had come from Web. So if we're talking about the same documents, I'm aware of that matter.

Q Was there any discussion of the return of these documents at this meeting?

A I don't recall. I'm trying to remember when the note -- the Web Hubbell note that says Jim Lyons was meeting with me and suggests you bring the document, whether that was before or after this.

Again, I don't remember any discussion at this

14 meeting about it.15 O Do you r

Q Do you recall any discussion at any time of the fact that these Madison files that were subsequently transferred by Mr. Hubbell, Mr. Kendall, then back to the Rose Law Firm had at one point been in Mr. Foster's files?

A No, I don't believe they were.

Q Are you aware of the fact that in the

22 November --

		09
1	MR. KRAVITZ: Wait. I want to make sure	
2	that Mr. Lindsey understands the question. When you	
3	said you don't believe they were, did you think that	
4	the question refers to Mr. Foster's office?	
5	THE WITNESS: Yes, I'm sorry.	
6	MR. KRAVITZ: I think the question was "in	
7	his files," which was actually the language that	
8	Mr. Kendall uses in his letter.	
9	BY MR. GIUFFRA:	
10	Q His November 22, 1993 transmittal letter to	
11	Rose, Mr. Kendall indicates that these Madison files	
12	were at one point or were from Mr. Foster's	
13	files. Do you know anything about that?	
14	A No.	
15	Q So as far as you know, for example	
16	strike that.	
17	As far as you know, Mr. Foster did not have	
18	any Madison files in his office?	
19	A In his office, no. I'm not aware that he	
20	had any Madison files in his office.	
21	Q Do you know whether Mr. Foster had any	
22	documents relating to Madison, Whitewater and related	
		90
1	matters at his home in either Washington or Arkansas?	90
1 2	matters at his home in either Washington or Arkansas? A No.	90
	•	90
2	A No.	90
2 3	A No.Q Do you know whether Mr. Hubbell maintained	90
2 3 4	A No. Q Do you know whether Mr. Hubbell maintained a storage facility in Arkansas where he maintained	90
2 3 4 5	A No. Q Do you know whether Mr. Hubbell maintained a storage facility in Arkansas where he maintained certain files relating to Madison or Whitewater?	90
2 3 4 5 6	A No. Q Do you know whether Mr. Hubbell maintained a storage facility in Arkansas where he maintained certain files relating to Madison or Whitewater? A No.	90
2 3 4 5 6 7	A No. Q Do you know whether Mr. Hubbell maintained a storage facility in Arkansas where he maintained certain files relating to Madison or Whitewater? A No. Q Do you have any information about why	90
2 3 4 5 6 7 8	A No. Q Do you know whether Mr. Hubbell maintained a storage facility in Arkansas where he maintained certain files relating to Madison or Whitewater? A No. Q Do you have any information about why Mr. Kendall would have referred to these Madison	90
2 3 4 5 6 7 8 9	A No. Q Do you know whether Mr. Hubbell maintained a storage facility in Arkansas where he maintained certain files relating to Madison or Whitewater? A No. Q Do you have any information about why Mr. Kendall would have referred to these Madison files as coming from the files of Vincent Foster? A No.	90
2 3 4 5 6 7 8 9	A No. Q Do you know whether Mr. Hubbell maintained a storage facility in Arkansas where he maintained certain files relating to Madison or Whitewater? A No. Q Do you have any information about why Mr. Kendall would have referred to these Madison files as coming from the files of Vincent Foster? A No.	90
2 3 4 5 6 7 8 9 10 11	A No. Q Do you know whether Mr. Hubbell maintained a storage facility in Arkansas where he maintained certain files relating to Madison or Whitewater? A No. Q Do you have any information about why Mr. Kendall would have referred to these Madison files as coming from the files of Vincent Foster? A No. Q Now, there's a reference "corporate	90
2 3 4 5 6 7 8 9 10 11	A No. Q Do you know whether Mr. Hubbell maintained a storage facility in Arkansas where he maintained certain files relating to Madison or Whitewater? A No. Q Do you have any information about why Mr. Kendall would have referred to these Madison files as coming from the files of Vincent Foster? A No. Q Now, there's a reference "corporate records/not to McDougal." "BF BW," I believe, is what the handwritten says.	90
2 3 4 5 6 7 8 9 10 11 12 13	A No. Q Do you know whether Mr. Hubbell maintained a storage facility in Arkansas where he maintained certain files relating to Madison or Whitewater? A No. Q Do you have any information about why Mr. Kendall would have referred to these Madison files as coming from the files of Vincent Foster? A No. Q Now, there's a reference "corporate records/not to McDougal." "BF BW," I believe, is	90
2 3 4 5 6 7 8 9 10 11 12 13 14	A No. Q Do you know whether Mr. Hubbell maintained a storage facility in Arkansas where he maintained certain files relating to Madison or Whitewater? A No. Q Do you have any information about why Mr. Kendall would have referred to these Madison files as coming from the files of Vincent Foster? A No. Q Now, there's a reference "corporate records/not to McDougal." "BF BW," I believe, is what the handwritten says. MR. SNYDER: The typed version page 532	90
2 3 4 5 6 7 8 9 10 11 12 13 14 15	A No. Q Do you know whether Mr. Hubbell maintained a storage facility in Arkansas where he maintained certain files relating to Madison or Whitewater? A No. Q Do you have any information about why Mr. Kendall would have referred to these Madison files as coming from the files of Vincent Foster? A No. Q Now, there's a reference "corporate records/not to McDougal." "BF BW," I believe, is what the handwritten says. MR. SNYDER: The typed version page 532 says "BC." MR. GIUFFRA: I believe the handwritten	90
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16	A No. Q Do you know whether Mr. Hubbell maintained a storage facility in Arkansas where he maintained certain files relating to Madison or Whitewater? A No. Q Do you have any information about why Mr. Kendall would have referred to these Madison files as coming from the files of Vincent Foster? A No. Q Now, there's a reference "corporate records/not to McDougal." "BF BW," I believe, is what the handwritten says. MR. SNYDER: The typed version page 532 says "BC."	90
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17	A No. Q Do you know whether Mr. Hubbell maintained a storage facility in Arkansas where he maintained certain files relating to Madison or Whitewater? A No. Q Do you have any information about why Mr. Kendall would have referred to these Madison files as coming from the files of Vincent Foster? A No. Q Now, there's a reference "corporate records/not to McDougal." "BF BW," I believe, is what the handwritten says. MR. SNYDER: The typed version page 532 says "BC." MR. GIUFFRA: I believe the handwritten says "BEF." Page 12532, about a third of the way down.	90
2 3 4 5 6 7 8 9 10 11 11 12 13 14 15 16 17 18	A No. Q Do you know whether Mr. Hubbell maintained a storage facility in Arkansas where he maintained certain files relating to Madison or Whitewater? A No. Q Do you have any information about why Mr. Kendall would have referred to these Madison files as coming from the files of Vincent Foster? A No. Q Now, there's a reference "corporate records/not to McDougal." "BF BW," I believe, is what the handwritten says. MR. SNYDER: The typed version page 532 says "BC." MR. GIUFFRA: I believe the handwritten says "BEF." Page 12532, about a third of the way	90
2 3 4 5 6 7 8 9 10 11 11 12 13 14 15 16 17 18 19	A No. Q Do you know whether Mr. Hubbell maintained a storage facility in Arkansas where he maintained certain files relating to Madison or Whitewater? A No. Q Do you have any information about why Mr. Kendall would have referred to these Madison files as coming from the files of Vincent Foster? A No. Q Now, there's a reference "corporate records/not to McDougal." "BF BW," I believe, is what the handwritten says. MR. SNYDER: The typed version page 532 says "BC." MR. GIUFFRA: I believe the handwritten says "BEF." Page 12532, about a third of the way down. MR. KRAVITZ: That's the typewritten	90

1 (Discussion off the record.) 2 THE WITNESS: I don't know whether it's 3 before or --4 BY MR. GIUFFRA: 5 Do you know what that reference refers to. "corporate records/not to McDougal," either "BEC" or 6 7 "BW"? 8 A No, I don't know why -- BW stands for Betsy Wright -- why she would be referenced there. Well, 9 10 whatever -- the campaign took some records to respond to all these questions. 11 12 Q From where did they take the records? 13 From the Rose Law Firm. 14 Who from the campaign took the records from 15 the Rose Law Firm? 16 I don't know. You know, I think Loretta 17 Lynch was involved with it. I think other people 18 were involved with it, but some of the Rose Law Firm records related to Whitewater, were transferred to 19 20 the campaign at some point during the campaign to respond. And again, if they ended up in Betsy 21 Wright's file, they would have been there -- McDougal 22 92 1 was clearly making an issue, had made an issue with 2 Jeff Gerth about how we told him we would return 3 corporate records and we hadn't. 4 But again, the only way BW fits there is 5 that Betsy Wright, to the extent that there were records in the campaign that she took home, again, 6 7 those would have been in her files and not returned 8 to McDougal. 9 Q It's your understanding that Ms. Lynch was 10 involved in removing files from the Rose Law Firm during the campaign? 11 12 I don't know if she was involved in moving 13 them. She was certainly involved in organizing them 14 and trying to respond to some of the press questions. 15 Would this have included Whitewater 16 documents as well as Madison? 17 Again, Madison was not an issue. Only 18 Whitewater was an issue. This was all Jeff Gerth-generated in February and March of 1992. The 19 20 only issue was Whitewater-related not Madison-related. 21

Have you ever discussed with Mrs. Clinton

1 her representation of Madison Guaranty?

It is possible around the time of the Jerry Brown debate in Chicago and Mrs. Clinton's comments the next day that I could have spoken to her about it. But outside of that narrow window of time, no.

Q What do you recall about any conversation --

I don't recall a conversation, but she was there, I was there. We could have discussed it.

O The reference immediately below "corporate records" -- "HRC/RLF/Loretta organized Charles James, account for Whitewater," do you know what that refers to?

14 Again, I think what that refers to is that 15 the records that the Rose Law Firm had on Whitewater, 16 we took charge of or we moved them over to the

campaign and Loretta tried to organize it. Charles 17

18 James was the accountant for Whitewater. I don't

19 know whether some of the records were his records or 20 not.

21 Are you aware of any documents relating to 22 Whitewater, Madison or related matters ever being

transferred to the Clintons themselves?

2 Α Ever?

3 0 Yes.

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5 Are you aware of any documents relating to 6 Madison or Whitewater ever being transferred to 7

Ms. Carolyn Huber?

8 No. The reason I hesitate on the first one 9 is there is a -- McDougal claims at some point he 10 gave the Clintons in late '80s some

11 Whitewater-related records. And clearly, I think the

Clintons had some records. You know, I've read 12

13 correspondence where at various times Hillary has

14 indicated she didn't have these records or that

15 record, but clearly they had some records, but I don't believe -- I don't know how they came in 16

17 possession of those records.

18 As of the time of the retention of 19 Mr. Kendall, do you have an understanding as to 20 whether the Clintons had Whitewater or Madison 21 records in their possession?

22 Α No.

Toward the bottom of the page, it says "NWW 1 Sam Heuer -- mistake." Do you know what that refers 2 3 to? 4 Yes. Α 5 What does this refer to? 0 6 This has to do with the IP property, the 7 International Paper property. That property was transferred -- was put into Whitewater. Three months 8 9 later it was moved into Great Southern Development Corporation. Heuer told someone -- again, I'm not 10 11 quite sure -- that it was simply a mistake, that McDougal had put it into the wrong corporation. Once 12 he realized it was in the wrong corporation, it was 13 14 moved out of that corporation into the right 15 corporation. 16 McDougal supposedly told someone else that 17 he put it in there because he wanted the loss 18 carry-forward that would be generated from it, and 19 that was around the time he was encouraging the 20 Clintons to deed their interest or sign over their interest in Whitewater, and the reason he wanted it 21 22 because he wanted the loss carry-forward to use 1

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against what he thought was going to be a profit he was going to make on the International Paper company.

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I think all of that was referred to in one of my notes to the files that Heuer says one thing. McDougal says something else.

The next page, let me call your attention to the quote "plane sold to Seth Ward -- WH father-in-law and then to Central Flying Service" and it says "trace through FAA in Oklahoma City. Who's on the airplane." Do you know what that refers to?

Yes. Part of the -- when they sold the 12 13 remaining lots, 24 of them, I guess, to Chris Wade in 14 1985, what he paid for it was he assumed about 15 \$35,000 in mortgage obligation, and he gave them an airplane. That airplane at some point Seth Ward 16 17 owned and ultimately Central Flying Service owned. 18 And I think Kendall or someone said you can trace

through the FAA the ownership of that airplane, and 19

20 that's what that was a reference to. 21

Let me take you down a little bit further.

If you go to the long version of the Lyons

97 report, I think this took us -- the \$25,000 that was 1 2 generated by this never was credited to Whitewater 3 apparently. And that's, I think, referred to in the Lyons report. Go ahead. I'm sorry. 4 Have you ever discussed Seth Ward with 5 6 Mrs. Clinton? 7 A No. 8 Have you ever discussed something called 9 Castle Grande with Mrs. Clinton? 1-0 No 11 Have you discussed a transaction called IDC 0 with Mrs. Clinton? 12 13 Α No. 14 Now, it says a little bit further down it 0 15 goes "RLF/Madison Guaranty retainer at 2000 per month." Let's actually turn to the handwriting part 16 of this, 12522, start "RLF Madison Guaranty 2000 a 17 month" and crossed out "34,000 WWDC to Hillary" and 18 it says "ANN plus check drawn on WWDC -- payable to 19 HRC." Do you know what this refers to? 20 No, unless somebody like the Washington 21 Times, for lack of a better source, was somehow 22 98 1 suggesting that this money had gone from Whitewater 2 to Hillary or something. Independently, I don't know, but there may have been some speculation out 3 4 there that Whitewater had been paying Hillary or 5 something, and this was a reference to that. Below that it says "ANN plus check drawn on 6 7 WWDC payable to HRC." Do you know what that refers 8 to? 9 I'm sorry, where? 10 It says "ANN plus check drawn on WWDC 0 payable to HRC." 11 12 Again, that's what I was actually 13 responding to before. You don't know what ANN refers to? 14 0 15 No A 16 Do you know L.D. Brown? Q 17 Α Yes. 18 You know who he is? 0 19 Yes. Α Does he have a mother-in-law whose first 20 21 name begins with Ann something who works for the 22 White House?

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99
            Ann McCoy, yes.
 1
        A
 2
             Could that be a reference to Ann McCov?
        0
 3
             No. Theoretically, it could be, but that
4
    wouldn't make any sense, and that appears several
 5
    other times in here, too, I believe, I thought, the
6
    word "ANN." So --
7
             So have you ever spoken to L.D. Brown about
8
    anything to do with Governor Clinton and David Hale?
9
             No. Spoken to him, no.
             Have you spoken to Ms. McCoy having to do
10
    with L.D. Brown and David Hale and Governor Clinton?
11
12
13
             Any meetings the three of them may have
        0
14
    attended?
15
             No
        Α
             Now, below that, it says -- it looks like
16
        0
17
    Bernie --
18
             That may be American Spectator. That could
19
    be AM. I'm guessing.
20
             Then it savs "Bernie" --
        Q
             You think that's Bernie or Bruce?
21
        Α
22
        0
             It could well be Bruce. In the typed
                                                          100
 1
    version, it says Bernie.
 2
        A I understand that. I was looking at the
 3
    other version.
 4
             "Believes it" --
        0
 5
            MR. KRAVITZ: Possible?
 6
            MR. GIUFFRA: Probable.
 7
            THE WITNESS: Probable.
 8
            BY MR. GIUFFRA:
 9
        O "Probable" is one way of reading it.
    "Represents confirmed payment of 2000 number of
10
11
    month for 17 months."
12
            MR. KRAVITZ: The typed version is clearly
13
    screwed up here if you compare it to the handwritten
    version on page 12522. The typed version has clearly
14
15
    combined two different entries.
            BY MR. GIUFFRA:
16
17
             Do you know what this refers to?
18
             Well, if there was a story that Hillary had
    received $34,000, either Bernie or I could have said
19
20
    that could be just a confusion that somebody may be
    taking $2000 a month times 17 months and coming up
21
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with \$34,000. And that that -- so if there is a

published story out there, I would check the American Spectator that there was somehow \$34,000 that went to Hillary that we were simply saying to whatever extent there's any truth to that, it's probably somebody taking the \$2000 and multiplying it by 17 and coming up with 34.

Q In the handwritten notes, there's a reference to Web Hubbell midway through page 12252. Does that arrow indicate that this information came from Mr. Hubbell?

A I don't think it came to him at that meeting. I think Web at some point, when he was speaking for the Rose Law Firm back in the '92 campaign, had indicated that the Rose Law Firm did receive what you all call a retainer, which I call an advance against billings for a 15-month period. So I don't know what -- I don't believe that was Web providing that information now. It simply could have been me referring to -- that Web during the campaign confirmed to the press that, in fact, the Rose Law Firm received \$2000 a month.

Q Now, immediately below that, there's a

discussion, "end of '86 asked for records. McDougal say that all corporate records to HRC." Do you know what that refers to?

A That's what I was talking about earlier when you asked me whether I knew about any corporate records going to the Clintons, that I did know that McDougal claims at some point in the late '80s he gave all the corporate records to Hillary.

Q Now, immediately below that there's a discussion. It says "RLF campaign Jim Lyons and Loretta Lynch." Those are the people who handled this matter during the campaign?

A Right.

Q Then it said "Betsy Wright had those records, took them home, Betsy Wright." What does that refer to?

MR. KRAVITZ: That's just a refrain.

THE WITNESS: Again, whatever records came to the campaign during this period in '92 would have been included in the records that Betsy had within her sort of group that she took home with her after the campaign. Web Hubbell retrieved -- again --

103 BY MR. GIUFFRA: 1 2 Did Web get all the documents from Betsy? Q 3 I thought so. I mean --A 4 0 Did Betsy keep any copies? 5 I have no idea. Α 6 Do you know approximately how many pages of 0 7 documents there were, or boxes? 8 No. I just understood that after the 9 campaign, Web went and got the documents from Betsy, stored them at his house, "WH's" would have been at 10 11 Web Hubbell's. 12 When it says "WH retrieved records from BW," that's Web Hubbell retrieved the records from 13 14 BW? 15 That's what I read it to be. Α 16 0 Not White House retrieved records? 17 Α No, Web Hubbell. Then it says "been at WH. Sent files 18 0 19 related to WW." Do you know what that refers to? 20 Not exactly. Α 21 0 What do you think it refers to? 22 Α Again, at some point -- and I'm not clear 104 1 on this, there was some question as to when Jim Lyons 2 got some of those records. That goes back to "bring records to lunch," and I had a sense that maybe later 3 4 that he didn't bring them to lunch, but he may have 5 sent them. So to make a more complete 6 reconstruction, I think maybe Jim with the added 7 records that he had, he would be able to do a better 8 reconstruction of Whitewater than he had done for the 9 Lyons report. If I was speculating, I think that's 10 what it had to do with. 11 Immediately below that it says "Charles 12 James/subpoenaed with SBIC matter relate to \$ going into WW." 13 14 Α I don't have any idea what that refers to. This was the portion of the meeting where 15 you were primarily making the presentation? 16 17 Yes. A 18 Did you have any understanding as of 19 November 5, 1993 of the subpoena that had been issued

Were you aware of any subpoenas relating to

to Charles James?

I don't think so.

20 21

1 any SBIC matters as of November 5, 1993? 2

Α

3 Are you aware of anything to do where 4 there's a connection -- strike that

Are you aware of any connection between

Charles James and any SBIC matter? 7

Α No

8 And you don't know what the reference to "relate to \$ going into Whitewater" refers to? 9

> Α No.

11 O So you have no recollection as to why you 12 might have said this or what it refers to at the

13 meeting? 14

Α I'm trying to find out if I actually said

15 it.

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16 Q Take a look at page 12523 at the top of the

17 page.

18 Off the record

19 Α No. Again, I could speculate.

20 What do you think it refers to? 0

Well, it's clear that at some point some of 21

22 the SBIC money that went to Susan McDougal went to

106

1 purchase the International Paper property. I say

2 it's clear. I don't know that for a fact. I think

3 McDougal has said that part of the proceeds went to

do that. So that money went into Whitewater, though 4

I take exception with that every time the press says 5

6 that because it was there for less than two months

7 and then left. 8

9

But Charles James, who kept the books on Whitewater, you know, might have some knowledge about

10 whether or not -- whether money actually came from

11 the Susan McDougal loan into Whitewater and did

12 that. At one point, I was told by -- and again, this

13 may have been something Gerth told me that I didn't

14 write Charles or James. Gerth told me in the

15 conversation that the money went into the McDougals'

16 account and came out in two cashier's checks. I

17 believe. And I don't remember much more about that

18 than what's reflected in the notes.

19 Again, I don't know whether any of this was 20 part of what Jeff Gerth told me or not.

21 (Discussion off the record.)

22 BY MR. GIUFFRA:

107 A couple of lines down on the typed version, it says "RTC/people trying to get BC and JGT." Do you know what that refers to? MR. KRAVITZ: What page are you on? MR. GIUFFRA: Page 12534. THE WITNESS: I don't know if I used those terms. I assume at that point I was discussing an article that appeared in the Arkansas Times relating to a referral in late October, I guess, or October of 1992 in which the article suggests that the RTC was pressuring the U.S. Attorney and Chuck Banks rejected it and thought there was no basis for it, also thought doing it that close to the election was partisan and therefore, refused to act on the indictment -- or the referral. BY MR. GIUFFRA: Do you know Chuck Banks? No. I mean, I probably have met him but I

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21 22 don't know him. Immediately below where it says "Chuck Banks rejected," there's the reference to "vacuum

Rose Law files," and it says "WWDC docs/subpoena."

108

What is your testimony as to what that refers to?

A Looking at it, I don't know. We probably did have a discussion at some point about whether or not anybody who -- and this would have been other people other than me because I had never seen the files, but that anybody who tried to look at the files would find that there wasn't much information there. I think Jim Lyons clearly had found that and tried to do the reconstruction. I think Kennedy and others had certainly seen that in their attempts in '90 and '91 to try to piece together what had happened with respect to RTC.

Other than your counsel, have you discussed with anyone what the phrase "vacuum Rose Law files" means?

I've not discussed it with anyone. I've A read Bill Kennedy's testimony. I do believe we had a discussion about -- if you look, you just wouldn't find much. I don't remember the word "vacuum" being used in any sense, but we did have a discussion about the quality and quantity of the documents were not there.

1	Q Then one other question. Were you the
2	person who was leading the discussion at this point,
3	or was someone else leading the discussion at this
4	point?
5	A I don't believe I could have led this
6	discussion because I had never seen the files.
7	Q Immediately after "vacuum Rose Law files,"
8	it says "WWDC docs/subpoena." What does that refer
9	to?
0	A I have no idea. WWDC probably stands for
1	Whitewater Development Corporation, but I don't know
2	what that means.
3	Q Does the word "subpoena" refer to the SBIC
4	subpoena referred to earlier in the notes?
5	A I wouldn't think so.
6	Q Did this refer to the possibility of future
7	subpoenas for documents?
8	A Again, I have no idea. I don't remember a
9	discussion about subpoenas.
20	Q No discussion of the possibility of
21	subpoenas in the future for documents related to
22	Madison or Whitewater?
	110
1	A Again, we might have, but I don't remember
1 2	A Again, we might have, but I don't remember it.
1 2 3	A Again, we might have, but I don't remember it. Q And again, it's your testimony at this
1 2 3 4	A Again, we might have, but I don't remember it. Q And again, it's your testimony at this meeting, there was no discussion of anyone being
1 2 3 4 5	A Again, we might have, but I don't remember it. Q And again, it's your testimony at this meeting, there was no discussion of anyone being asked to obtain information about the
1 2 3 4 5 6	A Again, we might have, but I don't remember it. Q And again, it's your testimony at this meeting, there was no discussion of anyone being asked to obtain information about the Hale/SBA/Clinton/McDougal transaction?
1 2 3 4 5 6 7	A Again, we might have, but I don't remember it. Q And again, it's your testimony at this meeting, there was no discussion of anyone being asked to obtain information about the Hale/SBA/Clinton/McDougal transaction? A No.
1 2 3 4 5 6 7 8	A Again, we might have, but I don't remember it. Q And again, it's your testimony at this meeting, there was no discussion of anyone being asked to obtain information about the Hale/SBA/Clinton/McDougal transaction? A No. Q Immediately below the phrase where it says
1 2 3 4 5 6 7 8 9	A Again, we might have, but I don't remember it. Q And again, it's your testimony at this meeting, there was no discussion of anyone being asked to obtain information about the Hale/SBA/Clinton/McDougal transaction? A No. Q Immediately below the phrase where it says "WWDC docs/subpoena," it says "documents never know
1 2 3 4 5 6 7 8 9	A Again, we might have, but I don't remember it. Q And again, it's your testimony at this meeting, there was no discussion of anyone being asked to obtain information about the Hale/SBA/Clinton/McDougal transaction? A No. Q Immediately below the phrase where it says "WWDC docs/subpoena," it says "documents never know go out," and I believe it says "quietly"?
1 2 3 4 5 6 7 8 9	A Again, we might have, but I don't remember it. Q And again, it's your testimony at this meeting, there was no discussion of anyone being asked to obtain information about the Hale/SBA/Clinton/McDougal transaction? A No. Q Immediately below the phrase where it says "WWDC docs/subpoena," it says "documents never know go out," and I believe it says "quietly"? A I'm not sure that says "quietly." If you
1 2 3 4 5 6 7 8 9	A Again, we might have, but I don't remember it. Q And again, it's your testimony at this meeting, there was no discussion of anyone being asked to obtain information about the Hale/SBA/Clinton/McDougal transaction? A No. Q Immediately below the phrase where it says "WWDC docs/subpoena," it says "documents never know go out," and I believe it says "quietly"? A I'm not sure that says "quietly." If you look where the cross is, it would be more like
1 2 3 4 5 6 7 8 9 10 11 12	A Again, we might have, but I don't remember it. Q And again, it's your testimony at this meeting, there was no discussion of anyone being asked to obtain information about the Hale/SBA/Clinton/McDougal transaction? A No. Q Immediately below the phrase where it says "WWDC docs/subpoena," it says "documents never know go out," and I believe it says "quietly"? A I'm not sure that says "quietly." If you look where the cross is, it would be more like "quality," but again
1 2 3 4 5 6 7 8 9 0 1 1 1 2 1 3 1 4	A Again, we might have, but I don't remember it. Q And again, it's your testimony at this meeting, there was no discussion of anyone being asked to obtain information about the Hale/SBA/Clinton/McDougal transaction? A No. Q Immediately below the phrase where it says "WWDC docs/subpoena," it says "documents never know go out," and I believe it says "quietly"? A I'm not sure that says "quietly." If you look where the cross is, it would be more like
1 2 3 4 5 6 7 8 9 10 11 12	A Again, we might have, but I don't remember it. Q And again, it's your testimony at this meeting, there was no discussion of anyone being asked to obtain information about the Hale/SBA/Clinton/McDougal transaction? A No. Q Immediately below the phrase where it says "WWDC docs/subpoena," it says "documents never know go out," and I believe it says "quietly"? A I'm not sure that says "quietly." If you look where the cross is, it would be more like "quality," but again Q Do you know what that means? A No.
1 2 3 4 5 6 7 8 9 10 11 12 13 14	A Again, we might have, but I don't remember it. Q And again, it's your testimony at this meeting, there was no discussion of anyone being asked to obtain information about the Hale/SBA/Clinton/McDougal transaction? A No. Q Immediately below the phrase where it says "WWDC docs/subpoena," it says "documents never know go out," and I believe it says "quietly"? A I'm not sure that says "quietly." If you look where the cross is, it would be more like "quality," but again Q Do you know what that means? A No. Q Do you know what the reference "never know
1 2 3 4 5 6 7 8 9 10 11 12 13 14 15	A Again, we might have, but I don't remember it. Q And again, it's your testimony at this meeting, there was no discussion of anyone being asked to obtain information about the Hale/SBA/Clinton/McDougal transaction? A No. Q Immediately below the phrase where it says "WWDC docs/subpoena," it says "documents never know go out," and I believe it says "quietly"? A I'm not sure that says "quietly." If you look where the cross is, it would be more like "quality," but again Q Do you know what that means? A No.
1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17	A Again, we might have, but I don't remember it. Q And again, it's your testimony at this meeting, there was no discussion of anyone being asked to obtain information about the Hale/SBA/Clinton/McDougal transaction? A No. Q Immediately below the phrase where it says "WWDC docs/subpoena," it says "documents never know go out," and I believe it says "quietly"? A I'm not sure that says "quietly." If you look where the cross is, it would be more like "quality," but again Q Do you know what that means? A No. Q Do you know what the reference "never know go out," do you know what that refers to?
1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18	A Again, we might have, but I don't remember it. Q And again, it's your testimony at this meeting, there was no discussion of anyone being asked to obtain information about the Hale/SBA/Clinton/McDougal transaction? A No. Q Immediately below the phrase where it says "WWDC docs/subpoena," it says "documents never know go out," and I believe it says "quietly"? A I'm not sure that says "quietly." If you look where the cross is, it would be more like "quality," but again Q Do you know what that means? A No. Q Do you know what the reference "never know go out," do you know what that refers to? A No.
1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 19 19 19 19 19 19 19 19 19 19 19 19	A Again, we might have, but I don't remember it. Q And again, it's your testimony at this meeting, there was no discussion of anyone being asked to obtain information about the Hale/SBA/Clinton/McDougal transaction? A No. Q Immediately below the phrase where it says "WWDC docs/subpoena," it says "documents never know go out," and I believe it says "quietly"? A I'm not sure that says "quietly." If you look where the cross is, it would be more like "quality," but again Q Do you know what that means? A No. Q Do you know what the reference "never know go out," do you know what that refers to? A No. MR. KRAVITZ: Can I ask one follow-up

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1	BY MR. KRAVITZ:	
2	Q Mr. Lindsey, was there any discussion at	
3	the November 5, 1993 meeting about anyone doing	
4	anything to make the Rose Law Firm files or any other	
5	files relating to Madison or Whitewater unavailable	
6	to investigators who were at that time already	
7	investigating any of those matters or who might do so	
8	in the future?	
9	A No, none.	
10	MR. KRAVITZ: Thanks.	
11	EXAMINATION	
12	BY MR. GIUFFRA:	
13	Q Immediately below that, there's a reference	
14	to Susan McDougal and there's a quote: "McDougals'	
15	account in Madison two different checks." Do you	
16	know what that refers to?	
17	A I think that's a reference back to Jeff	
18	Gerth telling me that the money from the \$300,000	
19	loan went into the McDougals' account and went out in	
20	two cashier's checks.	
21	Q Then immediately below that it says "IP	
22	file, partial releases of the file."	
	11:	2
1	A In the International Paper file I had, that	
2	I had gotten through the public records in Pulaski	
3	County, there were partial releases to the mortgage.	
4	It appeared as parts of the lots were sold off, that	
5	they would release that portion from this mortgage	
6	that they had on the property, that IP had.	
7	Q Further down if the page at 12534, there's	
8	a discussion that says "Betsy Wright/if Clinton took	
9	out a loan." Do you know what that refers to?	
10	A Probably.	
11	Q What do you think it refers to?	
12	A If I remember right, on the '84 report, the	
13	Clintons are listed as contributing \$50,000 to the	
14	campaign.	
15	Q The '84 campaign report?	
16	A Right.	
17	Q This is for the 1984 gubernatorial	
18	campaign?	
19	A Right. This relates back to the checks for	
20	the April 1985 fundraiser. The money was used to pay	
21 22	off a \$50,000 loan. The loan is not reflected if	
77	I remember looking back at the records the loan	

1 was not reflected on the '84 reports, although it 2 listed a contribution from the Clintons in the amount 3 of \$50,000. And so I think I was simply referring to 4 the fact that while the \$50,000 was referred to on 5 the campaign disclosure reform, the fact that it was a loan was not, though I think if you probably went 6 back to the contemporaneous newspaper articles, I 7 can't imagine anybody who looked at that, seeing that 8 9 who didn't ask, who wasn't told that it was a loan to

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the campaign.

Just like in many other states, Arkansas has a law that only the candidate can give more than whatever the limit is and that can include loans, but the loans have to be personal, obviously, because you can't -- a loan is a contribution, so a bank cannot loan it to the campaign. It would have to loan it to the candidate who would then have to loan it to the campaign.

Q Immediately below that it says "today/last report never had a match between receipts and expenditures." What does that refer to?

MR. KRAVITZ: I'm not sure it's clear from

THE WITNESS: Again, I was probably giving

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these notes that those two lines go together like that.

4 them a little primer on Arkansas law. Today, you 5 have to continue to file reports of both 6 contributions and expenditures up until the time that those loans are paid off. That loan was changed in 7 8 1990. At that time, you filed a final report of 9 contributions and expenditures. You only get expenditures by category 30 days after. And then you 10 had to file supplemental reports after that of only 11 12 contributions. So there would never be back then a 13 match between contributions and expenditures. You 14 would have a final expenditure report, and then you 15 could have supplemental contributional reports so you would never have a document where you could show that 16 you had this much expenditures, this much additional 17 18 contributions, and it zeroed out. But today, you 19 would do that, because today, the law is different.

BY MR. GIUFFRA:

Q Now, on the next page, 12535, it says on "Betsy said 'didn't have to disclose the loans.'"

What does that refer to?

A Again, because in '84, the actual loan was not referenced, I may have asked Betsy about that and Betsy said as long as you reference the \$50,000 from the Clintons, you didn't have to reference the loan. Again, I could well have had that conversation with Betsy.

Q Then below that it says "[\$300,000" -- again, I apologize for speeding -- "what application," and it says "from?]" Do you know what that refers to?

MR. SNYDER: Since there's a question mark, can we find the place on the handwritten -MR. GIUFFRA: 12524, midway down.

THE WITNESS: Do I know what that refers

16 to?

1 2

BY MR. GIUFFRA:

Q Yes.

A I don't quite know what the words refer to. And again, this comes from -- I think from David Hale, not necessarily from Jeff Gerth, but when David Hale went public. The question was where did he get

the money to make -- where did he get the authority to make the loans, the \$300,000 loan to Susan McDougal and the other loans.

And I was describing the transactions, that

Hale had a piece of property worth maybe 300,000. Madison loaned him basically -- he sold it. Madison basically loaned \$800,000 on it. 300,000 went off to pay off the debt that he had on it. The other 500,000 went into the SBIC. At some sort of match, and I'm not quite sure what it is, that gave him maybe 900,000 or a million dollars or maybe 500,000. I don't know. It gave him additional lending

authority from which he made these series of loans in the mid-'80s.

And so that is a walking through of how supposedly Hale got the authority to loan the \$300,000 to Susan McDougal plus some money to Jim Guy Tucker, plus some money to Steve Smith and so forth.

Q Further down 12535 there's a slash and it says "could be that JGT is target of RTC referral."

What does that refer to?

A Oh, I think that at least in the

117 conversation that we had on the 14th. Jeff Gerth told 1 2 Jack DeVore that while the Clintons were not a target, that, in fact, Jim Guy may be a target and I 3 4 think there's a reference in my notes from that day that says Tucker may be indicted. 5 MR. KRAVITZ: Could we make sure the record 6 7 is clear. What you're saying that you may have 8 discussed on November 5th the fact that on October 14th Jack DeVore reported having discussed with Jeff 9 Gerth the possibility that Tucker was a target? 10 THE WITNESS: Yeah. I don't know if I 11 12 would have related it back in that fashion, in fact, 13 Jeff Gerth told Jack DeVore that Jim Guy Tucker may be a target. I may simply be saving at this point 14 15 taking that information that Jeff Gerth gave Jack DeVore and now saying simply Jim Guy Tucker may be a 16 target of the RTC referrals without saying, you know, 17 Jack DeVore says that Jeff Gerth says in a meeting on 18 19 October the 14th. So the answer is that was a source of my information, was Jeff Gerth to Jack DeVore to 20 that meeting, but I don't know if in this meeting I 21 22 would have given the history. I may have just said 118 it on straight out. MR. KRAVITZ: Are you certain that the 2 3 source of this information about Mr. Tucker possibly being a target was Mr. Gerth as opposed to any 4 official of the RTC? And in asking that question, I 5 understand that you've already testified that if it 6 7 was Mr. Gerth, it came to you through others who may 8 have been --9 THE WITNESS: They were officials of the Treasury Department. The answer is I believed that 10 that information came from Gerth. 11 BY MR. GIUFFRA: 12 13 So it's your testimony that no information 14 was communicated at this meeting that came solely from government regulators? 15 I didn't understand that any information 16 came from government regulators. So again, I'm 17 18 sitting there talking to a government regulator who is telling me that he got a press call --19 MR. KRAVITZ: You mean on October 14th. 20

THE WITNESS: On October 14th, yes, who 21 22 tells me he gets a press call and then relates to me

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119 information. I understood the information he was relating to me came from that press call. Now, I don't know for a fact because I didn't talk to the press guy, that every word he said to me was every word that the press guy said to him, but clearly, I was receiving it as having come from the press. That's about all I can do. BY MR GILIFFRA: Did Mr. Nussbaum ever mention during the course of this meeting that he had discussions with Jean Hanson? Again, I don't believe that Jean Hanson ever came up in this meeting. MR. SNYDER: Could we take a moment. Is there something you want to find? MR. GIUFFRA: I think he's looking for page B-7. MR. SNYDER: You're in the As. THE WITNESS: What am I looking for? MR. GIUFFRA: I could be wrong. MR. SNYDER: Off the record. (Discussion off the record.) 120 THE WITNESS: In my notes of the October 14th meeting, there is a reference that talks about "AP reporter named Kyle Chicago deposited in Bank of Cherry Valley, other cashier's check, Jim McDougal/Susan McDougal \$300,000, current government may well be indicted." MR. KRAVITZ: What's the page on that? THE WITNESS: It's page X 001177. MR. KRAVITZ: What you're saying is when Mr. DeVore told you that on October 14th, it was your understanding that that information came to Mr. DeVore from Mr. Gerth? THE WITNESS: That's correct, either Mr. Gerth or maybe Mr. Kyle of the AP, but from a 15 reporter. 16 BY MR. GIUFFRA: 17 And was there discussion of the fact that 18 the information came from a reporter at the meeting 19 on November 5th? 20 Excuse me. In my typewritten notes of that 21 meeting -- those were my handwritten notes. In my

typewritten notes, I write "Gerth stated to his

knowledge President Clinton was not a target of the

2 referrals, although Governor Jim Guy Tucker might

3 be." Clearly the notes I wrote on the 20th right

4 after this meeting reflected that that came from

5 Gerth.

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6 MR. KRAVITZ: What's the Bates number on 7 that October 20 memo?

THE WITNESS: X 001179. So again, my understanding in the 14th meeting was that information was coming from Jeff Gerth.

I'm sorry, go ahead.

BY MR. GIUFFRA:

Q But at this meeting you had with

Mr. Kendall on November 5th, was there discussion of

the fact that this information was all coming from

16 reporters and not from regulators?

17 A Again, I was just -- I was

A Again, I was just -- I was dumping information. This wasn't a process meeting. I was just trying to tell them what was out there, so I

don't think there was -- I think I -- I didn't say
 The New York Times is working on this, The Washington

22 Post is working on this, The Wall Street Journal is

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working on this. This information came from AP. I was simply giving him all the information that was out there from whatever source, and so I do not believe that we had a discussion which said how this information came about.

O Further down the page, it says -- this is

Q Further down the page, it says -- this is midway through 12535 -- it says "repay it -- promise to repay it. HRC wait to after the election \$4761.33."

A The Lyons report identified two checks that the Clintons took interest deductions on that, in fact, were Whitewater interest deductions, and in the campaign, the Clintons had agreed that they would repay that money, but that that money hadn't been repaid and I think this \$4761.33 had to come from someone other than me. Sounds like the amount they owed plus interest, perhaps. Since I had never done that calculation, I could not come up with that number.

Q Let me direct your attention to the handwritten notes just for a quick second. At 12526 going over to 27, there's a discussion I believe it

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    reads "5" ---
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        A Excuse me just a second.
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            MR. SNYDER: Where in the typed version?
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            BY MR. GIUFFRA:
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            Let's just go to 12537. It says "5/85" and
 6
    talks about the second note at Madison Bank and
    there's a discussion that follows through. What does
 7
 8
    this discussion refer to?
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             I'm sorry, I'm not where you are.
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             Let me get you to 12537.
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             I go from 36 to 38. I do not have -- I
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    don't have 34. I don't have 37, unless it's
    somewhere over here. I can look at his. Where are
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    we?
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             This discussion at the top "5/85 second
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    note at Madison Bank," and it goes down and talks
17
    about 5/11/91.
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            MR. KRAVITZ: 8/11/91.
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            BY MR. GIUFFRA:
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             8/11/91, excuse me. What does that
21
    discussion refer to?
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             I don't remember if you remember, but we
                                                            124
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    originally said that the Clintons spent $68,000 in
    Whitewater. We included in that a $20,000 check,
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 3
    $20,000-plus check to the Madison Bank that the
 4
    Clintons at the time thought was meant to be used for
 5
    Whitewater, but it never happened. We couldn't find
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    it in Whitewater. In the papers, we couldn't find
 7
    any credit for it. We couldn't find any reduction in
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    the amount, but we still claimed it because the
    Clintons at the time had a clear memory that that was
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    what the purpose was.
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            Later, the President indicated that while
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    he was reviewing his mother's book, she made
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    reference to the lake home and the buying of the lake
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    home and the financing of the lake home, and he
15
    remembered that, in fact, that check could have been
     used to make a payment on the lake home.
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            We then held a press conference, and we
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     reduced from 68,000 down to 40-something thousand
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dollars the amount of money the Clintons had contributed to Whitewater and indicated that we had misapplied this \$20,000 check, which was really meant to be -- which was really used for another purpose.

20 21

1 But all of that is a way of saying we 2 thought it was going to be applied to Hillary's 3 loan. It wasn't. It was applied to the McDougal loan. That's just wrong. We were speculating that 4 5 it had been applied to a different loan because we had a copy of the check, frankly, that showed it had 6 7 been deposited. 8 Are you aware that in Susan Thomases's 9 notes from the '92 campaign that this check for 10 \$20,744.65 is mentioned several times? I think I read that. 11 During the '92 campaign, did you ever ask 12 13 then-Governor Clinton about this check? 14 I think Jim Lyons did. 15 And what was your understanding of what 0 Mr. Lyons learned from then-Governor Clinton? 16 17 I think the President had thought it had 18 gone to Whitewater, which was the basis for us 19 including it in the calculation, even though it didn't -- it didn't seem to fit in. 20 21 Now, then it says "-- not applied to HRC loan and repayment of loan/applied to McDougal note 22 126 written on personal account." What does that refer 2 3 Again, I think we thought at the time that 4 it had been applied to another McDougal note at the bank. You know, despite the fact that the Clintons 5 6 had written the check, they clearly had the check in 7 their canceled checks, and they clearly believed that 8 it was Whitewater. Since it had not been applied to 9 a Whitewater loan, I think we believed that it had 10 been applied or used by McDougal to pay down another 11 loan that he had at the bank. That turned up it's 12 just wrong. It was used to pay down a note that 13 Virginia Kelly had at the bank. Then it says "one year later/refinances HRC 14 15

at Security Bank." What does that refer to? Originally, this is the so-called \$30,000

track 13 loan, the original loan at Madison Bank. At some point, it was refinanced at the Security Bank of Paragould.

20 0 And "lot 13 interest problem," what does 21 that refer to?

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18 19

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That refers to the two checks for \$2000 and

\$2500 that the Clintons took a tax deduction on that Whitewater also took a tax deduction on in which the Lyons report indicated should have been taken by Whitewater and not by the Clintons.

Q Are you aware of any interest problem related to lot 13 other than that you've just

testified to?

A Any what?

 Q Do you know what the reference "lot 13 interest problem" -- are you aware of an interest problem with regard to lot 13?

A No, I think that's the interest problem.

Q So you're not aware of any other interest problem related to the financing of lot 13?

A I'm going to have to take a break and make a phone call.

Any other interest problem related to --

Q Are you aware of any interest problem related to the financing of lot 13?

A No, not an interest problem. I know the refinance of the Security Bank had a lower interest, but I'm not aware of an interest problem.

We were on the track 13 interest problem, I think.

MR. KRAVITZ: Lot 13. (Discussion off the record.)
BY MR. GIUFFRA:

BY MR. GIUFFRA:

Q What does this refer to, this entry, "lot 13 interest problem"?

A Again, I think it referred to the two checks that the Clintons took interest deductions on that were actually Whitewater interest reductions.

Q And the reference "20,744 not properly accounted for" --

A Again, it goes back to, again, we thought it was a Whitewater check, but we were unable to account for it. It turned out there was a reason why we couldn't account for it.

Q There's a discussion "Chris Wade runs real estate office/Ozark lands," and there's a discussion "he believes that a part owner/no paper/no evidence ownership interest earned in of some kind." What does that refer to?

A I believe it refers to the fact that Chris

129 1 Wade had indicated to someone that he thought he was 2 a part owner or was entitled to be a part owner or 3 that he had some sort of agreement or relationship with McDougal to give him part ownership of the 4 5 Whitewater Development project, but that there was no 6 paper or evidence of that, and I'm not quite sure 7 whether it was by handling the real estate that that 8 would entitle him -- he basically sold the lots. Whether or not bargaining and selling the 9 lots would entitle him to an ownership interest, 10 11 whether or not that was his understanding, that could 12 well be what the earning in would be of some kind. 13 that he was going to be able to earn into the 14 transaction or into the ownership, earn his way in. 15 "In 1985/McDougal deal Wade," what does 16 that refer to? 17 McDougal sold the remaining 24 lots in 18 Whitewater in 1985 to Chris Wade for the assumption 19 of \$35,000 of mortgage and this airplane. At the very top it says "Blair up/Chris 20 21 Wade." What does that mean? 22 I don't know. 130 1 0 You have no idea? 2 No. I was going to go look and see if I could find it on the --3 4 Am I correct that although Wade assumed 5 McDougals' interest in Whitewater in '85, the Clintons were not released from any obligation they 6 7 had until the balance of the loan was paid off? 8 Right. And he really didn't -- I think 9 it's incorrect to characterize it that he required 10 McDougals' interest. He basically acquired all the 11 lots. McDougal still had 50 percent. He didn't 12 acquire McDougals' interest in Whitewater 13 Development. He basically bought the last 24 lots. McDougal was still obligated on the loan? 14 15 A He was still obligated on the loans. The 16 Clintons were obligated on the loan. Even with 17 respect to the \$35,000, there was no release. So 18 yes, he became obligated on that 35,000 in addition 19 or contractually, but as far as the Citizens Bank was 20 concerned or First Ozark Bank was concerned, they

still had the McDougals and the Clintons on the loan.

What was the total amount that the Clintons

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131 were obligated for on that loan? 1 2 At that point? 3 0 Yes. 4 I don't know. I've seen various figures, 13,000, \$10,000. Those are usually in the '89-90 5 range. Excuse me. I'm sorry. There is a letter 6 from McDougal or somebody of which he basically 7 references 35 and says that -- and he has figures in 8 it. It's in the responses to the interrogatories. 9 10 but he references the 35 and says over and above the 35, I think we owe 4 or \$5000. So at that point, the 11 loan may have been at \$40,000 or so. When he wrote 12 the letter, it may have been \$40,000. 13 The reference was "not reconstruct 14 11,000." Do you know what that refers to? 15 Again, if I was looking at the note, 16 reconstruction doesn't sound right. --17 Let's take a look at page 12527 in the 18 0 19 handwritten. The "not" again, it doesn't seem to refer 20 to the reconstruction, if, in fact, that's what that 21 word is. It could have been it was taken as a 22 132 1 commission and the rest of the part could have been 2 not applied to Whitewater. Do you know what the 11,000 refers to? 3 Q 4 Α Maybe -- no, no. 5 0 I want to apologize for this. 6 The 11,000 could be at least at the time of Α 7 the reconstruction what the outstanding balance on 8 the --9 Flippin loan was? 0 10 Flippin loan was. In the Lyons letter, it makes reference to a figure around 11,000. 11 12 On page 12536 and I apologize for this the reference "HUD interstate land sales prospectus, real 13 estate slows down." Do you know what that refers to? 14 15 Α No. 16 Do you recall any discussion of HUD 0 17 interstate land sales prospectus? Have you looked at the notes? Is that 18 19 what's reflected in the notes? It looks like it. 20 I'm looking on page 12525. I don't know what that 21 refers to.

Page 12538 at the top of the typed version

22

133 it says "owe IRS [WWDC/232,000] [goes to GSLC:]." 1 2 MR. SNYDER: For the record, you said "slash" when the typewritten versions has a hyphen 3 4 or a dash 5 MR. GIUFFRA: I apologize. I certainly 6 have made that error throughout the deposition 7 today. I've been trying to rush. MR. SNYDER: I don't think it's important. 8 9 I just wanted to clarify for the record. 10 MR. GIUFFRA: Thank you. I appreciate 11 that. 12 THE WITNESS: Do I know what this means? 13 Is that what you're saying? 14 BY MR. GIUFFRA: 15 0 Yes. 16 No. Again, we could have had a discussion. 17 then, about Whitewater taxes and somebody could have 18 said since they didn't file their taxes, that they 19 owe the IRS and there could have been a discussion 20 about no, that they had a negative net worth of 21 \$230,000 or something. And therefore --22 The Whitewater Development Corporation? 0 134 1 That Whitewater Development Corporation 2 did, and therefore, there are no taxes on it. You 3 know, I'm trying to figure out -- again, that might 4 have been a discussion we had, though I don't recall 5 having it, that would be consistent with what these 6 notes are. 0 What does the reference to GSLC refer to? 8 GSLC, I think, refers to Great Southern 9 Land Corporation. Now, I don't know whether we -- in 10 that same conversation we had a question about the 11 liability on these mortgages because the mortgage --12 when Jim McDougal transferred the deed out of 13 Whitewater into Great Southern Land, he left the 14 mortgage in Whitewater. 15 So apparently, Whitewater, when IP 16 foreclosed, sued Whitewater and got -- ah -- and got 17 a deficiency. That's probably what that whole thing 18 is. IRS is probably not the Internal Revenue 19 Service. It may be International Paper Realty.

Could be. I'm guessing. And the 232 may be the

Again, you know, you and I are

amount of the deficiency in the foreclosure.

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speculating. I don't remember, but this could have been a discussion about that.

Q Below that there's a reference "sold stock for \$1000." That's the Clintons selling their interest in Whitewater Development Corporation?

A That's what I assume.

Q Then it says "term as governor -- report as asset/liability/neither."

A I think that was a reference to in looking back at the disclosure forms, sometimes they listed Whitewater as an asset. Sometimes they listed it as a liability, and sometimes they may not have listed it.

Q This is on the disclosure forms filed in connection with him serving as governor of Arkansas?

A Every year he had to file a disclosure form, and I think somebody said they had reviewed those forms and sometimes he listed it as one and sometimes the other.

Q Then below that, it says "First Federal candidate disclosure form -- did not disclose because did not know existed." And that's reference to the

President not knowing that the Whitewater liability existed as of the time you filed the form in late '91?

I don't know if it's "did not know." He

didn't -- the people who were putting it together did not think of this as a -- as one of the Clintons' liabilities, so it was not listed. To say that the President didn't know, he didn't say oh, by the way, I have this mortgage loan up at Flippin, but it was not listed on the Whitewater and it was not listed on the first financial disclosure form.

Q Do you recall any discussion at this meeting or any other time of the failure of the Clintons to list their investment in Whitewater Development Corporation on a bank loan application?

A Oh, I know Chertoff raised that with me at a hearing. And I know that David Kendall indicated it was listed at a different point on the form than where Michael directed me. So no --

Q Other than the time when it was raised at the hearing, are you aware of any other time when there was discussion of the failure of the Clintons

1	to list Whitewater on a
2	A No. I'm just arguing with the factual
3	premise with that. I'm not sure it wasn't listed on
4	that form. It wasn't listed where Michael directed
5	me.
6	MR. GIUFFRA: I have no further questions.
7	MR. KRAVITZ: Let's go.
8	MR. SNYDER: I have no questions.
9	MR. GIUFFRA: Thank you very much. I want
10	to thank Mr. Lindsey and Mr. Snyder for their
11	cooperation.
12	(Whereupon, at 7:00 p.m., the deposition
13	was concluded.)
14	····,
15	***************************************
16	BRUCE R. LINDSEY
17	
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CERTIFICATE OF NOTARY PUBLIC & REPORTER

I, JULIE BAKER , the officer
before whom the foregoing deposition was taken, do hereby
certify that the witness whose testimony appears in the
foregoing deposition was duly sworn; that the testimony of
said witness was taken in shorthand and thereafter reduced
to typewriting by me or under my direction; that said
deposition is a true record of the testimony given by said
vitness; that I am neither counsel for, related to, nor
employed by any of the parties to the action in which this
deposition was taken; and, further, that I am not a
relative or employee of any attorney or counsel employed by
the parties hereto, nor financially or otherwise interested
in the outcome of this action.

Notary Public in and for the District of Columbia

My Commission Expires SEPTEMBER 30, 1997



DEPOSITION OF DAVIS FITZHUGH IN RE: S. RES. 120

MONDAY, JANUARY 15, 1996

U.S. Senate,
COMMITTEE ON BANKING, HOUSING AND URBAN AFFAIRS,
SPECIAL COMMITTEE TO INVESTIGATE WHITEWATER
DEVELOPMENT CORPORATION AND RELATED MATTERS,
Washington, DC.

Deposition of DAVIS FITZHUGH, called for examination pursuant to notice of deposition, at 1:05 p.m. in Room 640-A of the Hart Senate Office Building, before BRENDA M. SMONSKEY, a Notary Public within and for the District of Columbia, when were present:

ALICE S. FISHER, Esq.
Majority Associate Special Counsel
H. CHRISTOPHER BARTOLOMUCCI, Esq.
Majority Associate Special Counsel
JAMES S. PORTNOY, Esq.
Minority Associate Special Counsel
LANCE COLE, Esq.
Minority Deputy Special Counsel
U.S. Senate
Committee on Banking, Housing, and Urban Affairs
534 Dirksen Building
Washington, DC 20510
On behalf of the Committee.

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ask that you testify under oath. If you don't

understand a question or need to take a break, let me

know. The stenographer will prepare the record of

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questions and answers and the deposition will be considered committee confidential until the commencement of the public hearings.

I see that you are not represented by counsel today, but you are aware of your right to have counsel here with you; is that correct?

A Yes.

Q Objections to the form of the question, if you have any, will be noted for the record. Usually the Chairman will rule on any objections. If you don't understand a question, tell me and I will rephrase it.

Do you have any questions now before we get started?

A No.

Q Could you state your name for the record.

A Davis Fitzhugh.

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11_.

Q Could you give us a brief description of your employment history.

A Starting when?

Q Starting after college, just briefly.

A Okay. From college, I went to SMU and got an MBA, and from there I went to work at Republic Bank for about two years. That was in Dallas. Then I went to work at the Cromwell architectural firm in

Little Rock, Arkansas.

From there I went to law school. After graduating law school, I worked at Baird, Kurtz & Dobson, a CPA firm in Little Rock. From there I went to work at Wengroup, which is a real estate development firm based in New York, but they had offices in Little Rock.

From Wengroup, I went to Madison Savings and Loan. Since working at Madison, I have been self-employed.

Q Did you speak to anyone about the deposition prior to coming to the deposition?

A No.

Q Are there any documents that you have in

7 your possession relating to Madison Guaranty 1 2 Savings & Loan? 3 Α No. 4 0 Did you have documents at one time in your 5 possession related to Madison Guaranty Savings & Loan 6 that you have since turned over to other 7 investigative bodies? 8 Yes. 9 When would that have taken place? 0 10 The first time was back in either '89 or 11 '90 when they tried James McDougal on some various 12 charges. I don't know what they were. So I guess I gave the FBI or whoever was prosecuting that thing 13 whatever records I had related to those matters. 14 15 I guess within the past year and a half or 16 two years, I gave the FBI records on what I call the 17 revenue office building, which was a little building 18 across the street from Madison's headquarters. That 19 is really the only thing I ever had any records on. 20 The revenue office building? 21 Α Yes 22 0 Could you briefly describe what the revenue 8 1 office building is. 2 It was an old dilapidated gas station that 3 hadn't been used in there is no telling how long, 10 or 15 or 20 years. It had winos sleeping in it. It 4 was really nasty. It is now I call it a revenue 5 6 office. It is where you go get a drivers license or 7 renew your tags or boat license, stuff like that. It is about 320 square feet. 8 9 Why did you have documents relating to that 10 building? 11 Because I own it. Α How long have you owned that building? 12 0 Since about, well, October of '86. That 13 14 year may not be right, but I think it is. Maybe 15 '85. 16 Did you buy that knowledge while you were

A Madison bought the building through another employee who did the negotiating with the current

What were the circumstances that surround

employed at Madison Guaranty Savings & Loan?

Yes, I did.

17 18

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that transaction?

904 9 1 owner. 2 0 Who was that? 3 Α Who was the current owner? 4 If you recall. 0 5 I don't remember. It was some company that Α 6 had their building right next door that was in, like, 7 the cigarette vending machine business, something like that. Madison bought it. They were in the 8 9 process of renovating what we call South Main Street in Little Rock, which was a very bad part of town. 10 The buildings had not been well taken care of, and 11 there were like adult movie houses. There were 12 13 prostitutes everywhere. Every other building was 14 unoccupied. 15 McDougal was trying to renovate that part of time. That was just the natural building to buy. 16 He had bought several others. There was nothing 17 18 special or unique about that one. 19 Did Mr. McDougal ask you to buy the 20 building? I didn't buy it. Dan Garner bought it from 21 that cigarette place. Then I asked McDougal if I 22 10 could buy it from I guess it would have been the 1 service corporation at that point in time, which is a 2 branch of the savings and loan. 3 4 Would that be Madison Financial 5 Corporation? 6 Yes. MFC. Α 7 Q What did Mr. McDougal say to you when you asked him? You approached him about buying the 8 building? 9 10 Α Yes. 11 0 What did he say to you? He said I could buy it. 12 Α Did you do the loan transactions through 13 O Madison Guaranty or Madison Financial? 14 15 They loaned me the money. Was that Madison Guaranty or Madison 16 0 17 Financial? 18 A I don't know. Probably Madison Guaranty,

Q And do you recall approximately how much that loan was for?

19 20

not sure.

because that was the actual savings and loan, but I'm

		11
1	A I think it was for 110 or 120 or something	1 1
2	like that, but I never borrowed the full amount of	
3	the loan.	
4	Q Meaning you made a down payment?	
5	A There was enough money in there to buy the	
6	building and renovate it, and I never spent all the	
7	money, so I never drew down all the loan proceeds.	
8	Q Do you know how much the building was	
9	bought for?	
10	A I want to say the high 70s or possibly 80,	
11	somewhere in that neighborhood.	
12	Q And did Mr. McDougal handle the loan	
13	transaction or did someone else within the bank?	
14	A I don't think he did.	
15	Q Do you recall who may have?	
16	A Well, I just can't think of his name. Dan	
17	or Don.	
18	Q Denton?	
19	A Don Denton, yes.	
20	Q And you continue to own that building	
21	today?	
21 22	today? A Yes, I own it today.	
21 22	today? A Yes, I own it today.	12
	A Yes, I own it today.	12
22		12
22 1	A Yes, I own it today. Q And has the loan or the mortgage been paid	12
1 2 3 4	A Yes, I own it today. Q And has the loan or the mortgage been paid off?	12
1 2 3	A Yes, I own it today. Q And has the loan or the mortgage been paid off? A Yes.	12
1 2 3 4 5 6	A Yes, I own it today. Q And has the loan or the mortgage been paid off? A Yes. Q Could you give me a description of how you	12
1 2 3 4 5 6 7	A Yes, I own it today. Q And has the loan or the mortgage been paid off? A Yes. Q Could you give me a description of how you came to work at Madison first I would ask, did you come to work at Madison Financial Corporation or Madison Guaranty?	12
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1 2 3 4 5 6 7 8 9 10 11 12 13 14 15	Q And has the loan or the mortgage been paid off? A Yes. Q Could you give me a description of how you came to work at Madison first I would ask, did you come to work at Madison Financial Corporation or Madison Guaranty? A I don't really know, because I worked for both of them on and off. But to answer your original question, I was working at this company called Win Group Development, and I had a friend at another real estate company, and he said you might want to go and talk to these people at Madison because they are doing great things in real estate. He knew I was interested in development work. So, I was told to	12
1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16	Q And has the loan or the mortgage been paid off? A Yes. Q Could you give me a description of how you came to work at Madison first I would ask, did you come to work at Madison Financial Corporation or Madison Guaranty? A I don't really know, because I worked for both of them on and off. But to answer your original question, I was working at this company called Win Group Development, and I had a friend at another real estate company, and he said you might want to go and talk to these people at Madison because they are doing great things in real estate. He knew I was interested in development work. So, I was told to go I had never even heard of the place when I	12
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1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16	Q And has the loan or the mortgage been paid off? A Yes. Q Could you give me a description of how you came to work at Madison first I would ask, did you come to work at Madison Financial Corporation or Madison Guaranty? A I don't really know, because I worked for both of them on and off. But to answer your original question, I was working at this company called Win Group Development, and I had a friend at another real estate company, and he said you might want to go and talk to these people at Madison because they are doing great things in real estate. He knew I was interested in development work. So, I was told to go I had never even heard of the place when I	12

A I don't remember exactly what I did. I guess I made a phone call and they said send a resume and I did and went down and talked with them.

1 Q Who did you talk with at the bank?

A John Latham and James McDougal.

3 Q Do you recall what the date was?

A Probably early '85.

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Q And after that meeting, you were given a position at Madison?

A Right, within a couple of weeks or so.

Q Do you recall what your first position with Madison was?

A I was a vice president, but again, I'm not sure if it was the MFC or the savings and loan. I think it was MFC. I'm just not positive.

Q And you would have started that in early '85. Do you recall a month?

A I think it was in March.

Q And who did you work with primarily when you started at the bank in March of '85?

A I didn't work with anyone, but I reported to John Latham.

Q What were your duties basically?

A Well, I guess I was hired primarily because

22 they were interested in having a broker/dealer

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network, securities sales. I told them I was willingto take all the series licenses involved. I didn't

3 know anything about it, but I was willing to try to

4 learn. So, that's really -- that's one of the main

things they hired me for, that plus general realestate development.

Q What did Mr. McDougal or Mr. Latham tell you about the real estate development that was going on at the bank at that time in early '85 when you were applying for the job or when you first started?

A Not a great deal, to be honest with you. They had a project down there called Maple Creek Farms. It was advertised on all the television shows. I already knew about that. I knew they were renovating that Main Street area.

McDougal also had a few projects going in smaller towns where he would buy, I guess, kind of rural land and put in either trailer park type developments or something along those lines.

Q Did you discuss the Maple Creek Farms project with Mr. McDougal when you arrived at the bank?

15 Not to any extent, because I never worked 1 Α 2 on it. 3 Do you know who at the bank was involved in 0 4 that project? 5 I know who was in charge of selling it, a 6 guy named Pat Harris. But I don't know who was -- it 7 was pretty much up and going when I started there. The roads were in. There were lots and lots of 8 9 houses out there. I don't know that there was really that much development work going on. I think it was 10 11 primarily sales. 12 Other than Mr. Latham, who else did you come in contact with on a somewhat regular basis at 13 14 the bank? 15 Α On a personal basis or on a reporting 16 business basis? 17 A reporting relationship, who worked for you? 18 19 Α McDougal and that was it. 20 How often did you have contact with 0 21 Mr. McDougal? 22 I can't remember. Sometimes three times a 16 day and sometimes once in two weeks. 1 2 What about Mrs. McDougal, Susan McDougal? 3 Α I had virtually nothing to do with her. 4 Do you recall what the state of the bank 5 was when you arrived in March of 1985, what you knew 6 about the state of the bank? 7 Not very much. I knew they were considered small, less than \$100 million in assets but growing, 8 9 and McDougal was recruiting elderly people to make 10 large CD deposits. 11 For what purpose? O 12 To grow, I suppose, the asset base of the Α 13 bank. 14 Did he discuss this with you, his 0 15 recruiting? 16 Α No. 17 O Do you know anybody in particular that he 18 was recruiting? 19 No. I'm just talking about he would 20 advertise that he would go pick people up at these 21 buildings that were known to have large quantities

of, say, 60- and 70-year-old people. He would pick

them up in a Rolls Royce or limousine and bring them
down to the bank to make a CD deposit.

O Were you aware of any problems that the

Q Were you aware of any problems that the bank was having when you arrived in '85?

A No

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6 Q Did you become aware of that later in '85, 7 early '86?

8 A Well, certainly later, but when I don't 9 know. If I had known there was something wrong, I 10 wouldn't have gone down there to start with.

11 Q Do you know when you began to become aware 12 of the problems at Madison?

13 A When I started hearing about the bank 14 examiners coming and staying for a while.

Q And would that have been early '86?

A I think it would have been early '86.

17 Q And what did you hear about the problems at 18 that time? What kind of things were going on that

19 were concerning people?

A Well, nothing right then and there other than the fact that -- well, I knew something was a little unusual because when the bank examiners came,

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1 McDougal left. His reasoning was that he left to

2 give them more room to take over his office, which

3 was a nice gesture, but I guess that really is not

4 why -- maybe that wasn't his main motive.

When the examiners came to look through the files of the bank, he physically left the office?

7 A That's my recollection. He moved out to 8 Castle Grande.

Q He moved to Castle Grande?

A I'm not an expert on the whereabouts of James McDougal, so --

12 Q That's fine. I don't expect that anybody 13 is, probably.

Who was basically running the day-to-day happenings at the bank during that time when Mr. McDougal left?

A I imagine John Latham was.

Q Was there anyone else that basically was higher up on the reporting chain?

A Not really. As far as who was really running it, there just weren't too many

22 possibilities. There weren't a lot of employees down

there. Sarah Hawkins was a compliance officer, but I 1 2 doubt if she was really running the bank. I don't 3 think Don Denton was. 4 Greg Young was the only person down there 5 with any banking expertise. He was like the CFO, but I don't think he was really running it. 6 7 Was there a board of directors of Madison 8 Financial Corporation? 9 I think so. 10 Do you know who was on the board of 11 directors of Madison Financial Corporation? 12 No. I could guess. I imagine Latham was, and probably Sarah Hawkins and Steve Cuffman, and 13 some guy from Bald Knob, Peacock, I think was on it. 14 15 Would that be Charles Peacock? 16 Α 17 0 Was there a board of directors at Madison 18 Guaranty? 19 A That's what I mean. 20 0 Do you know about a board on Madison Financial? 21 22 I don't think there was. 20 1 0 Were you on either? 2 No. I was never on the board of directors. 3 and I was never on the loan committee. I was never on much of anything. 4 5 Who was Mr. McDougal's secretary at that 6 time? 7 Sue Straithairn. It is the only one I 8 remember. I think she was the only one there when I 9 was. 10 About how many employees were at the bank? Q Well, let's see. There were probably three 11 12 or four tellers. There were three people who worked 13 in the bank doing like check sorting and stuff like 14 that. There were two people out front that would 15 meet with customers for like CD deposits or loan 16 requests or things like that. There was a string of 17 offices down one side that probably had maybe another 18 five or six people. So less than 20, I think, most 19 of the time.

And were there other vice presidents other

I'm sure there were. The title is

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than yourself?

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21 meaningless. Virtually everyone was either a vice 1 president or an assistant vice president. You did 2 3 not have to earn the title 4 So that would have included Mr. Latham? 5 Α He was president. 6 0 Mr. Cuffman? 7 No. He was not an officer or a member of 8 the bank. He was on the board of directors. 9 What about Mr. Peacock? 10 Α No. Just on the board? 11 0 12 Α Yes. That's my understanding. 13 Who were the other vice presidents or 0 assistant vice presidents in the '85-86 time frame? 14 15 Somebody whose first name was Brett. I 16 don't remember his name. That may not be his right first name. I think Susan Thomas. These names may 17 18 not be right. 19 To the best of your recollection. I 20 realize it was a long time ago. 21 I think she was one of the ones like 22 selling the CDs out front. 22 Would that have been Brett Farris? 1 O 2 Yes, it probably was. There was Vernon Dutton or something like that. I may be getting that 3 4 confused with Don Denton. Vernon was an assistant vice president. Well, Don Denton, I don't know, he 5 6 was probably vice president. He may have been something else. I don't really know. 7 8 Larry Kuca, but I don't know that Larry had a bank title. I'm not sure if Larry was a bank 9 employee or what he was. 10 11 O What was his role? 12 Mainly as far as I knew he was working on something called Campobello, which was one of 13 14 McDougal's developments. 15 O Did you work at all on Campobello? A No. 16 Was there a woman named Bonnie Corcoran 17 18 that worked at the bank?

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O

Yes.

What was her role?

She was, I think, in charge of the people

in the back doing the check processing. I guess she

kind of ran the paperwork part of the bank. She may 1 2 still be down there.

Was Campobello a project that was ongoing when you arrived at the bank or was it just getting started?

No. It was definitely ongoing. Α

7 Do you know who was involved in Campobello to the best of your recollection?

9 Well, let's see. Other than say Kuca and McDougal and Latham, there were a group of investors 10 from Little Rock, including Jerry Jones who owns the 11 Dallas Cowboys. 12

He is a happy man today.

Yes, he is having a good weekend.

There were about four or five others. If there names were important, I could probably think of some of them. That is not really important. Larry

somebody or other who was an attorney, and Sheffield 18

19 Nelson.

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Would that be Larry Wallace? 0

21 Α Yes. And John Flake. That may have been 22 all of them.

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Q Other than Campobello, did Mr. Wallace, Mr. Jones, Mr. Nelson or Mr. Flake have any other role at the bank?

Not that I'm aware of. I think they were just investors. This is all so old and I may have it scrambled and wrong and everything else.

I completely understand. I appreciate you trying to help us out.

Getting back to the bank examination when the examiners arrived and Mr. McDougal left, what kind of things did you then discover were happening at the bank that may have concerned you?

Well, I was told that there was a big -- I don't know if it was over a weekend or night or whatever, where they made up all kinds of appraisals and put them in the files and no telling what else.

Who told you that?

I don't really know who told me that. I don't know that it was what you would call real confidential information. So, I could have heard it from any number of people down there.

Do you know who was involved in that,

1 cleaning up the files? 2 Pure hearsay. I mean, Don Denton, Palmer 3 and -- well, that's all I really know. 4 That would be Robert Palmer? 5 Yes Α 6 O He was the bank's appraiser? 7 Α 8 0 Was he the primary appraiser for the bank? 9 Α As far as I know. 10 And do you have any knowledge as to why they were making up appraisals at that time? 11 12 I guess there weren't any in the files, but 13 I really don't know. 14 In the loan files. 15 Did you have any dealings with Mr. Palmer 16 while you were at the bank? 17 I knew him. I met him a few times, but 18 that's it. 19 0 Did you have any occasion where he would 20 prepare appraisals for anything that you worked on? 21 No. I went out to his office once, and I don't even remember why. I went with Pat Heritage 22 26 1 and Steven Cuffman's brother, whose first name 2 escapes me at this minute. I don't know why we went 3 out there. When you asked if I had any contact with 4 him, that's it. 5 Other than appraisals not being in the proper files, were there any other problems that you 6 7 became aware of at the bank when the examiners were 8 arriving? 9 Well, I mean I think just the loan 10 portfolio in general was in somewhat disarray. 11 Could you be more explicit? Tell me the 12 types of things. 13 I don't really know any explicit details. Did you have any conversations with anybody 14 at the bank at that time about the loan portfolios 15 16 being in disarray or problems? 17 No. I found out after the fact. 18 Did you have any conversations with the 19 bank examiners when they were there in '86? 20 No. Well, now wait. I mean, it is 21 possible someone came in and talked to me or

something like that. But I have absolutely no

1 recollection whatsoever. I would hate to say no, I

never did, but I sure don't remember anything. 2 3

At that time, did you become aware that there had been a supervisory agreement with the

5 Federal Home Loan Bank Board with Madison Guaranty

from 1984, or a cease and desist order? 6

Well, at some point I knew about that.

Do you recall when you became aware of it 0 or how you became aware of it?

No. 10

> 0 Was it before this second examination in

12 1986?

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13 I don't know. Α

14 Do you recall anything that was outlined in the supervisory agreement or the cease and desist 15

16 order of 1984?

17 No.

> 0 Do you recall ever discussing it with

19 anvone?

20 No. It was not within my kind of jurisdiction or anything I ever worked on. 21

22 Did there come a time when you became aware

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of the 1986 examiners' findings? 1

Well. I know that a bunch of them made a 2 3 trip down to Dallas.

Do you recall who went down to Dallas?

I know Latham did. I think Sarah Hawkins.

I don't know who else went. 6

That was a result of the exams that they

had been doing in early 1986? 8

9 I don't remember the timing of it. I don't 10 know when they went to Dallas or exactly why, but I 11 know they did.

Did you have any discussions with anybody when they came back from Dallas about the meeting?

I think Latham got fired on the spot, is my recollection.

Q Did you ever talk to him about that,

Mr. Latham? 17

No. We weren't close.

What about Mrs. Hawkins or Ms. Hawkins?

Did you discuss the meeting with her? 20 21

No. I mean, not -- I wasn't really

involved in what was going on down there. They 22

didn't talk to me and I didn't talk to them. When

2 she came back, she and Steve Cuffman and Greg Young

3 kind of took over, is my recollection.

Q Was there some kind of meeting at the bank that kind of announced the change in leadership?

A No.

Q Up until that time, Mr. McDougal had been running the bank?

A I think Latham always ran the bank.

10 Q What was Mr. McDougal's role then at that 11 time between the '84 and '86 period?

A I don't really know. I guess he was trying to put together these deals, real estate deals.

14 Maybe he ran the bank. I don't think he did. I

15 thought that was John Latham's purpose in being

16 there.

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Q When you first arrived at the bank, what would you consider your first project or your first responsibility? Was it a wide array of things you were involved in?

A I guess -- this may be not exactly accurate because it has been so long. I know I worked on that

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1 broker/dealer, and I tried to get familiar with some

2 of the projects the bank was working on, and I worked

3 on that Main Street project, just learning what they

4 were doing, and they had already purchased quite a

5 bit of property, and finding out what else was

available so they could try to buy some more of thesebuildings and either tear them down or fix them up.

8 Q Other than Mr. Latham, was there anyone else at the bank that you dealt with on those projects?

11 A Latham and McDougal were really the only 12 two people I ever reported to.

two people I ever reported to.
 Q Getting -- trying to take those in order,
 the broker/dealer project, was that actually a

project to issue preferred stock for the bank that

16 then went into what you referred to as the

17 broker/dealer project?
18 A I think they

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A I think they were working on that. But it was also so that they could, I guess, syndicate some of their real estate projects and sell those off to,

21 I think they were wanting groups of 35 or less

22 because it determined what types of regulatory

requirements you had to meet and so forth. Those 1 2 were the reasons that I was told to work on it. 3 This was an effort by Madison to raise 4 capital? 5 I don't know about that. The part I worked 6 on had more to do with the real estate syndications. Was that also an effort to sell limited 7 8 partnerships? 9 Α Same thing. Is it the same thing? 10 0 11 Α Same thing. 12 At one point in time, in early '85, April 0 of '85, and I can show you some documents here in a 13 minute, Madison Guaranty was involved in some 14 research or an attempt to issue preferred stock, and 15 later it wanted to basically set up a broker/dealer 16 so that it could sell that stock as well. I want to 17 talk about that as opposed to the broker/dealer 18 limited partnership, selling the real estate off. 19 20 I want to ask you what you recall about that, the first thing I talked about, the preferred 21 22 stock issuing. 32 I don't know anything about that. 1 2 I want to show you a document and hopefully 3 this may help refresh your recollection. It is a document that was not produced by Madison. You may 4 have seen it a long time ago. It is cc'd to you. It 5 is RS 00700 to 702. It appears to be a handwritten 6 memo dated April 3, 1985 from Charles, who I believe 7 is Charles Handley at the Arkansas Securities 8 Department to Beverly, who I believe is Beverly 9 10 Bassett-Schaffer at the Arkansas Securities 11 Department. It refers to a phone call that you may have 12 made to Madison or about Madison issuing preferred 13 stock. If you could look that over and see if it 14 15 refreshes your recollection at all. (Witness examined the document.) 16 17 It obviously happened, but it sure doesn't help my memory. 18 19 Do you recall any communications you may have had with anyone at the Arkansas Securities 20

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Department?

No.

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33 1 Do you recall any research you may have 2 done on the preferred stock issue? That I personally did? 3 4 0 5 No. See, this is April of '85. I bet I 6 hadn't worked at Madison even a month. Someone 7 probably said "here, do this." So I did it, but I probably had no idea what I was doing. 8 9 Just as a follow-up on that, there is an 10 April 16, 1985 memo that appears to be from you to John Latham on this issue. It is RS 000684 to RS 11 12 000685 13 I'm not going to ask you about the 14 substance of the statutes and what they say or don't 15 say. It appears to be a memo that discusses the statutes relating to the issue of preferred stock. 16 17 Does this refresh your recollection? 18 (Witness examined the document.) 19 I'm sorry. Do you recall early in your tenure at the 20 bank having discussions with anyone at the bank about 21 issuing preferred stock? 22 34 No. The only people that probably would 1 2 have asked me would have been Latham and McDougal. Do you recall discussing the issuance of 3 4 preferred stock with any outside counsel from the 5 bank? 6 Well, I know it mentions this Rick Massey, and I know I talked with him and went to the Rose Law 7 Firm a time or two. So, I imagine -- I'm sure we 8 9 talked about that or the broker/dealer in general. 10 But as far as remembering any details of anything, I don't. 11 12 0 Where do you see that it mentions Rick 13 Massey? 14 Α I thought it did in one of these. 15 0 And Mr. Massey was at the Rose Law Firm? 16 A Yes. 17 And do you recall that you had conversations with Mr. Massey regarding preferred 18 19 stock maybe? No. I just know that I did go there and 20 21 meet Rick Massey and did talk to him. So, that's the

only thing I can think of that we might have talked

about. We could have talked about preferred stock or the broker/dealer or limited partnerships. Those are about the only three possibilities.

Q Do you recall knowing at the time that you arrived at the bank in April of '85 that Madison used the Rose Law Firm as legal counsel?

A I don't think I knew it before I ever started. I guess at some point I found that out.

Q Do you recall when you found that out or how?

A No.

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Q Did you learn that the Rose Law Firm was on retainer with Madison?

A I may have. I don't know. I mean, it wouldn't have made much difference to me.

Q Do you recall any other law firms that Madison used as legal counsel?

A Yes. I know they worked with John Selig. He was with Tucker, Selig or whomever, whomever.

Q If you had a legal question that arose in your day-to-day business, would you contact Mr. Selig? Is there some person that you generally

contacted that was outside counsel to the bank?

A I never spoke with Mr. Selig. I certainly would not have contacted him. I guess if I had a question about something I was doing, I probably would have asked Latham who to ask.

Q Do you recall having conversations with Hillary Clinton regarding the preferred stock deal or the broker/dealer deal?

A No, not specifically.

Q Did you know Mrs. Clinton at the time?

A No. There were meetings at the Rose Law Firm that she certainly could have been in, but as far as any extensive -- I may have spoken with her or had a conversation with her, but if I did, it did not stick in my mind, no specifics about it or anything like that.

Q You don't recall whether in 1985 you did or did not have conversations with Mrs. Clinton?

A No, I just don't remember.

Q And how many meetings did you attend at the Rose Law Firm?

A I don't even know, to be honest with you.

- 37 1 Now, there is another lawyer, but I don't think he 2 was at the Rose Law Firm. His name was Thalheimer. 3 I think he worked for the Arnold, Grobmyer law firm. 4 I met with him a few times about the offerings for 5 the limited partnerships. 6 Would that be Latham Thalheimer? 7 A Yes 8 Are you aware of whether Mr. Thalheimer was 9 the commissioner for the Arkansas Securities 10 Department prior to Ms. --11 I think he had been, but he obviously 12 wasn't at the time. But he had been. 13 Did you have any deals with Ms. Beverly 14 Bassett-Schaffer, who was the commissioner of the 15 Arkansas Securities Department, at any time while you 16 were at the bank? 17 Α None that I recall. 18 0 Do you recall Ms. Schaffer ever visiting 19 the bank? 20 Not that I recall. Α 21 Do you recall her having any meetings with 22 Mr. McDougal? 38 1 Α It is certainly possible, but I wouldn't 2 know, no. 3 How about any meetings with Mr. Latham? 0 4 Α Same answer: I just wouldn't know. 5 Do you recall approximately the timing of 6 the meetings that you may have had at the Rose Law Firm? Were they early when you first arrived at 7 8 Madison? Were they later? Were they before the 9 examiners? After the examiners? Just to try to set 10 a date in your mind. 11 I don't remember, but I would imagine they were before the examiners. Once the examiners came 12 13 in, most of the stuff I was working on just dropped, 14 or at some point it was dropped. I imagine that's 15 when it was. 16 So, do you recall whether it was close to 17 the time you first arrived at the bank? 18 No. I don't recall. 19 Did you know Governor Clinton at that time? 0
- 21 0 Did you ever have any conversations with 22 Mr. McDougal about either Governor Clinton or Hillary

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No.

1 Clinton?

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A No.

Q So, it would be your testimony that in no conversation that you had with Mr. McDougal Mr. McDougal mentioned either Governor Clinton or Hillary Clinton?

A Not to my recollection. I mean, my gosh, you are talking 10 years ago.

Q To the best of your recollection.

Obviously all these questions are to the best of your recollection.

A I don't doubt that he may have said something like I'm going to meet with Bill or Hilary or something like that. But it didn't stick with me.

Q Do you recall either Governor Clinton or Hillary Clinton coming to the savings and loan to meet with Mr. McDougal or Mr. Latham at any time?

A No. I don't ever remember seeing them there.

Q Do you recall -- I'm going to ask you another question about the preferred stock. Do you

recall that at some point in May of 1985 the Arkansas

Securities Department approved Madison's request to issue preferred stock?

MR. PORTNOY: For the record, I'm not sure that that's exactly what happened. They issued a legal opinion that an S&L could issue preferred stock, but I think there is a technical distinction as to whether they formally approved a request from Madison to do so

MS. FISHER: I believe that the record says -- the letter of May 14th from Ms. Schaffer to Mrs. Clinton says that the Arkansas Securities

Department agreed with the Rose Law Firm analysis

that an S&L in Arkansas could issue preferred stock
 and that therefore Madison could do so, and it does

and that therefore Madison could do so, and it does
 mention Madison by name. The record will speak for
 itself.

17 itself.

MR. PORTNOY: I speak to clarify the record. If it ever becomes relevant, we will discuss it later.

BY MS. FISHER:

Q Do you ever recall that happening?

A The fact that they were approved?

Q Yes.

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A I don't know, because so much has been in the papers and you hear all this. I have some recollection in my mind knowing that event took place. Did I know it five or 10 years ago, I don't know

Q Because it appears -- the reason I ask is because it appears that at least at some point you were interested in this issue. There are other billing records from the Rose Law Firm that show that you had conversations with members of the Rose Law Firm on this issue.

Whether it sticks out in your mind that you became aware at some point that it was approved or that Madison was allowed to move forward on whatever deal they wanted to do, do you recall at some point working on a project that would allow Madison to purchase a broker/dealer or set up a broker/dealer relationship to issue the preferred stock?

A They had either already purchased one or we were in the process of purchasing one. I think the

actual purchase took place after I was there. It was from a guy named Thorsen or --

Q Thorpe?

A Thorpe. Bob Thorpe or something. Whatever. But he had an existing broker/dealer that he wasn't doing anything with. So Madison bought it. I think they bought it after I was there.

Q Did you have any involvement in that acquisition?

A Other than probably trying to make sure that we had the -- I may have had to have all those exams and the series and so forth in place before we could actually close on it or something like that. That's probably what I did.

Q Did you have any conversations with -- I believe you testified you had conversations with Mr. Massey of the Rose Law Firm on this issue.

A On some issues. I don't remember exactly what, but I did talk to Rick Massey.

Q Do you recall what you talked to him about?

A No. I know a few areas that I worked in, so I have to imagine that that's what it was about.

Q Could you explain to me the other broker/dealer project that you were -- strike that.

Let me finish this out.

1 2

Did there come a time when you became aware that Madison would not be able to meet certain requirements set forth by the Arkansas Securities Department so that it may use the broker/dealer to issue its preferred stock?

A It doesn't stick out in my mind. The whole preferred stock deal is not real high on my priority list. I imagine it was just something they told me to go do and I didn't know anything about it and I did the best I could to try to scrounge around and look up these statutes and so forth.

Q Do you recall working on the broker/dealer relationship with the Arkansas Securities Department and submitting financial analyses to the Arkansas Securities Department regarding Madison's net worth?

A I don't think I ever produced any documents that show their net worth. Somebody may have given them to me and said give them to them. I may have done that.

Q Did you ever work out any of the calculations yourself?

A Well, I know I did for, like, the NASD. We had to show a certain amount of capital. There are all kinds of filing requirements we had to meet on a quarterly basis or something like that to show that we had a certain amount of money, net capital or something like that. I think I did all that.

Q And how would you go about collecting the information that would allow you to submit, for example, the quarterly filing reports?

A I don't know. I think we had an account set up and it had money in it and all it did was sit there. I think once or twice we were written letters because we didn't have enough money. I know we did something wrong several times, but it was pretty minor. I don't think we ever got fined. But that's really all I can remember. It was pretty much my job to handle the paperwork on the broker/dealer.

Q What is it that you are referring to that there was an account set up that had money in it that just sat there? What exactly is that?

1 I can't even remember. But I know we had 2 to have a certain amount of capital. So it must have 3 been somewhere. To my knowledge, there was never any 4 activity whatsoever with that broker/dealer. We 5 didn't do one thing with it. 6 MR. PORTNOY: Can I ask a clarifying 7 question? 8 MS. FISHER: Absolutely. 9 MR. PORTNOY: I guess I'm a little confused about what entity you prepared forms for. Was it for 10 11 the broker/dealer or for Madison Guaranty? 12 THE WITNESS: For the NASD. 13 MR. PORTNOY: It was for the broker/dealer 14 itself. So the capital account you are referring to 15 is a broker/dealer capital account rather than a 16 Madison account? 17 THE WITNESS: Yes. 18 BY MS. FISHER: 19 Q Did you ever file any quarterly reports for Madison that they would file with the Federal Home 20 21 Loan Bank Board? 22 Α For a banking loan? From a banking 46 1 standpoint? 2 Yes. 0 3 Α No 4 0 Who at the bank was responsible for doing 5 that? 6 There were only two people that I can think of that possibly could have done it, Greg Young or 7 John Latham. 8 9 To the best of your recollection, they 10 would have been the ones who were filling out the 11 calculations for the quarterly reports for the bank? 12 They are the only ones to my recollection 13 that had any financial knowledge of the operation of 14 the savings and loan from a banking standpoint. 15 Well, maybe Don Denton, but I don't know that he 16 would have done something like that. I think he was 17 more of a loan officer. 18 Could you explain to me what the limited partnership project was, what it was, who worked on 19 20 it. 21 I think I am the only one who worked on

it. What it was, they had some of these properties,

and I think Campobello was one. The big picture was Madison owns real estate and they wanted to sell off units, partnership units to investors. In order to do that, you have to meet securities laws, regulations, requirements and so forth. You also have to have a broker/dealer, a license to sell these

things.

So, that's what I was doing as far as the limited partnerships, is set up a broker/dealer, in their case buy one, get all the licenses required to properly operate it and then, assuming there was ever a product, sell it.

Q There never was a product; is that correct?

A Never.

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Q So you were never involved in any of the selling; is that correct?

A No. There was nothing to sell.

Q Am I correct then that the broker/dealer was to sell both preferred stock and limited partnership shares then?

A Well, when I first started there, to me it was presented to me the main purpose was to syndicate

real estate. I guess -- this whole thing about capital stock just doesn't register with me. I know doubt did some of this, but it was apparently not very high priority or never went very far or I didn't spend that much time on it.

Q Did you work with anyone at the Mitchell, Williams firm, John Selig or any of his associates on the broker/dealer relationship, the limited partnership relationship or the stock deal?

A I may have, but I do not -- if you have a name, I could tell you if I remember it or know it. Yes, there was one girl down there that I think I talked to a few times. That's it. I don't know what her name was. I'm not even sure that's what I talked to her about. I think that may have been some totally other matter.

Q Other than Mr. Massey, do you recall working with anyone else at the Rose Law Firm with regard to any of these matters?

A No.

Q Were you involved in doing any projections for the broker/dealer operations, financial

projections?

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No. I don't think so. As far as saying we might sell X number of units of this or that, I don't recall doing any.

Do you know who the other employees of the bank would have been who would have been discussing these issues with outside counsel?

6 7 8 Well, maybe some of the -- maybe Brett

9 Ferris or Susan -- no, it wasn't Susan. It was 10 Sarah. There were two Sarahs down there, Sarah

11 Hawkins and Sarah Thomas. Maybe they would have

12 talked about it because they may have also been

13 recruited to do some selling of some of the things

because they were selling CDs. They might have sold 14

either the stock or limited partnerships. That is 15 16 only a guess.

17 What about Sarah Hawkins? Would she have 18 been working on this?

It is certainly possible. She was like the compliance officer. She should have been in charge of everything that had to do with regulations.

Q Do you have any independent recollection of

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working with her on any of these issues?

I know I spent some time in her office going over some things. We very well may have talked about the broker/dealer or who knows what. I definitely worked with her on some things, but I don't know what.

Q I want to show you a document, RS 00384, dated December 27, 1985, which appears to be a letter from the Rose Law Firm, Richard Massey, to you, enclosing application forms for the broker/dealer. It is dated December 27, 1985. I want to first ask you if you recall being sent this document.

No

Is it your recollection that you were working on the broker/dealer registration and application prior to this time, which is late '85?

16 Yes. This looks a little late to me 17 18 because I would have expected that by this time we had already purchased that other one. So, I don't 19 20 know why we would have gotten this. But my dates may 21 be all wrong. It would be pretty easy to find out.

So -- just a second.

(Pause.)

1 2

Do you recall that Madison was informed by the Arkansas Securities Department that it could not go through with the broker/dealer relationship unless it met its net worth requirements and that it was having problems meeting its net worth requirements under the federal standards in order to do this?

A I knew they were having trouble meeting their different accounting qualifications.

Q Did you have any discussions with anybody at the bank about meeting these qualifications?

A You mean the broker/dealer?

Q The requirements to meet net worth in order to do the broker/dealer registration.

A No, but they very well could have taken place. I'm sure if it affected the broker/dealer that I was trying the operate and we didn't have enough net capital or whatever was required, I imagine I would have known about it.

Q Do you recall being aware that they were having problems meeting their net worth requirements in December of 1985?

A Well, I know we were having some trouble at some point in time because I told you we got some letters. I don't know if we got fined or whatever, but I know we had some problems with NASD on one or two occasions for either filing late or not having enough capital, and it may have been capital in the savings and loan that we were using to do the broker/dealer.

Q Do you recall discussing the net worth requirements with anybody at the bank?

A Not specifically. It may have happened.

Q Do you recall discussing it with

Mr. McDougal?

A Well, no, but I probably would have been more likely to discuss them with John Latham than Mr. McDougal.

Q Do you recall at that time that you may have been discussing these things with John Latham, discussing other problems that the bank was having? This would be in 1985, prior to when the examiners arrived.

A No.

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1	Q Did Mr. McDougal and Mr. Latham or yourself
2	have anybody specifically in mind with regard to who
3	the limited partnership interests were going to be
4	sold?
5	A I didn't, and I don't know if they did or
6	not.
7	Q I want to next ask you about the
8	development which is known as Castle Grande. If you
9	could just explain for the record what your
0	understanding of what that is, how it came about.
1	A Well, are we talking about IDC or Castle
2	Grande?
3	Q Why don't you explain for me what you see
4	as the difference, if any.
5	A IDC was a purchase by Seth Ward of a large
6	tract of land that IDC, Industrial Development
7	Corporation, used to own. Castle Grande included
8	some of the acreage that was in IDC, and it was a
9	manufactured housing it wasn't a trailer park, but
20	it was a manufactured housing subdivision.
21	Q And at the time of the initial purchase by
22	Mr. Ward from IDC, were you aware that Madison
	54
1	Financial Corporation also purchased a portion of
1	
	Financial Corporation also purchased a portion of
2	Financial Corporation also purchased a portion of that IDC land?
2	Financial Corporation also purchased a portion of that IDC land? A Yes.
2 3 4	Financial Corporation also purchased a portion of that IDC land? A Yes. Q What is your knowledge of that transaction?
2 3 4 5	Financial Corporation also purchased a portion of that IDC land? A Yes. Q What is your knowledge of that transaction? A I thought they purchased everything that
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there when you got there in April or March?

A No. It was several months, either late summer or early fall.

Q Is the Castle Grande development the first thing you are aware that Mr. Ward was working on for the bank?

A I don't know that he worked on the Castle Grande thing. As far as I know, Seth Ward bought the land that IDC used to own and that was it.

Q He worked out the initial transaction?

A Right.

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 Q And are you aware that during the initial transaction, about 600,000 worth of land or 400 acres went to Madison Financial Corporation, and the other portion of the land, which was acreage north of 145th Street, went to Mr. Ward personally?

A I knew there was a split, and I guess now that you mention it, I do recall it had something to do with the highway. The north went one way and south went the other. I thought it had to do with the fact that Madison could only have so much money in their service corporation, and they were trying to

stay within the guidelines.

Q So, to stay within the guidelines, they set up Mr. Ward as kind of the purchaser to warehouse the land; is that your recollection?

A I guess that's what happened. I really didn't remember the fact that they split it until you mentioned it right now. I do remember something about that.

Q Do you recall that was to get around the bank regulation of direct investment by the service corporation of 6 percent?

A I think that rings a bell.

Q Do you recall having any discussions with anyone at the bank about that, how the transaction was split or why it was split?

A I think it was already done. Certainly no one asked me my opinion about it.

Q After the fact then, did anybody tell you why they did it that way?

A I learned it one way or another. I don't know who told me or how I found out.

Q When you learned it, what was the substance

of what you learned?

A Just what you said, that it was split from one side of 145th Street, and I guess half ownership went one way and half went the other.

Q Is it your understanding that the -- strike that.

Is it your understanding that the actual land that was purchased from IDC, more than half going to Mr. Ward and the other half or a portion going to Madison Financial Corporation, was actually part of one whole development as far as the bank was concerned?

A Well, again, I just thought they bought everything that IDC owned. There was some land that wasn't anywhere near this 145th Street that was included as well.

Q Of the land that was near the 145th Street, and you have described one portion of it which was a subdivision of manufactured houses, can you describe just for the record other portions of it to the best of your knowledge, what was on that land?

A On the whole thing?

Q Yes.

A The only other like structure, I think there was -- I mean the Levi Strauss building that was the subject of the charges against McDougal, I guess some other things were also, that was on it. I think there was a fire station on it next to Castle Grande. As far as any structures or buildings, I don't think there were any others.

Q So mostly just land?

A Just land.

Q And as far as you knew, Madison Financial Corporation was attempting to sell any portion of the land that it could?

A Uh-huh.

Q And are you aware that the whole portion of the land that was bought from IDC was considered the Castle Grande development?

A No. I mean, to me it was always the IDC property, and Castle Grande was a part of it, was something within it but separate.

Q And was that, the Castle Grande --

A I don't think Castle Grande existed.

Q The reason I ask is because there are some minutes of a board meeting. I don't know that I have them with me. They are from Madison Financial right before the closing of the purchase which designates the entire portion as Castle Grande Estates or Castle Grande. I want to try to be clear for the record. It is Castle Grande something.

A Estates. That's how I knew it.

Q It was considered the whole development, not just this portion. That's where the confusion I think comes from as far as from the bank's

12 standpoint.

A I'm confused, too. I'm not sure what you are asking me.

Q I forget my question at this point.

A I don't think Castle Grande existed when Madison purchased IDC.

Q Okay. What I was wondering -- when do you think that it started to exist then?

A I think they decided to put residential housing on the south side of 145th street, make it this manufactured housing stuff and call it Castle

1 Grande. That's what I think happened, but that may 2 not be right.

Q And what I was trying to explain to you, which was the basis for my question, there are minutes of September 1985 from Madison Financial Corporation board meeting that talks about the purchase from IDC and calls the entire development

Castle Grande.

A Oh.
O At least tha

Q At least that suggests that from the bank's perspective, the entire land was Castle Grande and this portion with the manufactured houses may have been referred to as Castle Grande Estates. I'm just trying to get your understanding as a member of the bank if that comports with it.

A No, that was never my understanding. It may have been everyone else's but it wasn't mine.

Q What involvement did you have, if any, in developing this land?

A Castle Grande or any of it? None.

Q Were you involved in selling any portions of the land?

A I think I went out there two or three times to look at it. I never sold anything. I was never involved in putting any streets or anything having to do with the development of anything out there.

Q Did you become aware at a later point in

Q Did you become aware at a later point in time that the initial acquisition from IDC was considered a fraudulent transaction by the Federal Home Loan Bank Board because of the way it was structured to allow Mr. Ward to buy a portion of it, to basically warehouse the land to get around the direct investment rule?

A Did I become aware at some point in time?

Q Yes.

A Yes, after I wasn't working there any longer.

Q So not until after you left the bank. When was it that you left the bank?

A I think in the summer of '87.

19 Q What were the circumstances of you leaving 20 the bank?

A Well, after having about seven different offices and 10 different job titles, I had nothing to

1 do there. It was rather apparent to me and to
2 everyone else. They brought in a guy named Tommy
3 Trantham to, I guess, take over at that point in
4 time. They fired me. They gave me a one-month's
5 severance and said we don't need you, which was
6 apparent to everyone.
7 MR PORTNOY: Could you restate when tha

MR. PORTNOY: Could you restate when that occurred.

THE WITNESS: I think it was in the summer of '87.

BY MS. FISHER:

Q To the best of your knowledge, who either at the bank or outside of the bank was involved in the Castle Grande development, either developing it or selling it?

A Well, certainly McDougal. Outside the bank?

Q Inside or outside the bank.

A I can't remember the guy's name. His wife was a receptionist down there. He was a dirt contractor. It starts with an M or something.

MR. COLE: Off the record.

63 (Discussion off the record.) MR. PORTNOY: I would like to state for the 2 3 record that Lance Cole of the Minority staff has joined us and will be with us henceforth. 4 5 BY MS. FISHER: 6 O Other than McDougal, you recollect that R.D. Randolph was involved with Castle Grande? 7 I think he did what I call the dirt work 8 9 down there, cutting in the streets and whatever utilities were put in. I think he did it. 10 Anybody else come to mind? 11 Well, I thought Vernon Dutton had something 12 to do with it, but that may not be right. They set 13 up something called Master Developers to buy a part 14 of it, which was some of Susan's brothers, I 15 16 believe. That would be Jim and Bill Henley? 17 O Sounds right. I think Jim Guy Tucker 18 either bought -- I think he bought some land out 19 there. He had something to do with part of it, but I 20 21 don't know what. I think he bought some acres. To the best of your recollection, what was 22 64 Master Developers? 1 I don't really know. I mean, it was a 2 3 corporation that owned land. That's all I know. 4 And the land that they owned was at the 5 Castle Grande development. Other than the initial acquisition, what 6 7 was the extent of Mr. Ward's involvement in the 8 development? 9 Nothing that I know of. I mean as far as any further work, I'm not aware of any. 10 11 Did he continue to stay at the bank during 0 12 that time? Very little, but some. 13 Α Do you know what else Mr. Ward was working 14 15 on at the bank? 16 Α No. 17 Did Mr. Randolph have any other dealings 18 with the bank, to the best of your knowledge? I think he did some other dirt work for 19 20 McDougal on other projects. Other than that? 21 Q 22 Α Other than dirt work? Not that I'm aware

1 of.

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Q Now, I believe that at some point in time you came to buy what has been referred to as the Levi Strauss building: is that correct?

A That's correct.

Q Can you explain for the record how that7 came about.

A Sure.

9 Q First of all, the Levi Strauss building was 10 on the Castle Grande development; correct?

A It was part of the IDC purchase.

12 Q Part of this transaction we are talking

13 about?

14 A Yes.

15 O Was that north of 145th Street?

16 A Yes.

17 Q When you bought it, did you buy it from

18 Madison Financial Corporation or did you buy it from

19 Mr. Ward?

A I thought I was buying it from Madison

21 Financial. You said Seth Ward owned it. He must

22 have sold it to Madison and I guess Madison sold it

66

1 to me.

Q Could you explain how it came about that you went and bought this building.

A Sure. James McDougal asked me to come up into his office, asked if I had a valid real estate

6 license at that time, which I did. He was going to,

7 I guess, have me as a broker on the sale of that

8 building, pay me a 10 percent commission which would

9 serve as the down payment back to the bank and sell

10 me the building.

Q What did you say to him when he offered you this?

A I wasn't very much interested. But it wasn't are you going to; it is you are going to buy this building.

Q Is this the first time something like this had happened at your tenure at the bank where

18 Mr. McDougal said you are going to do such-and-such?

A Certainly the first time it happened to me.

Q Had you heard of it happening to others at

22 the bank at that time?

A I think I became aware either at the same time or shortly thereafter that several people bought property.

Q Under that same arrangement that you described?

A Well, I don't know. I don't know if it was the same arrangement or if it was different.

Q Do you know whether -- who do you recall were the other people?

A Well, actually the only one I know of for sure was Larry Kuca. Again, this is all hearsay. I never sat down with Larry and said hey, did this really happen.

It was my understanding he bought a piece of property in what was called the 65th Street industrial park that was owned by IDC. I imagine they did the same thing with him, although I don't really know that for sure. I don't know the terms of anyone else's financing.

Q When you had this meeting with Mr. McDougal about the purchase of the Levi Strauss building, was it a done deal at the end of the meeting or did you

agree to it right then and there? How did it work?

A I told them that -- I didn't really know what to say, to be honest with you. At some point I told them I was not going to buy that building unless I got nonrecourse financing, for obvious reasons.

I think one or two or three days passed when I worked with Greg Young trying to figure out what would be some terms that this thing would make some reasonable sense for someone to buy it as far as purchase price and interest rate and so forth.

Q Why don't you describe what the building looked like at that time.

A Well, I can't remember how big it was. It was your basic concrete tilt-up wall construction warehouse. Levi Strauss was in the process of installing air conditioning. I think it was about 60,000 square feet now that I think about it. I remember thinking to air condition that much space is very, very expensive. They were willing to do it and pay for it.

Q So, it was actually a jeans factory?

A Not a factory. It was a distribution

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warehouse. It was a very nice, high quality
building. It is still there. I haven't been out
there in years. But I understand the Sharper Image
now uses it for local distribution.

O You spoke to Mr. Young about the

Q You spoke to Mr. Young about the transaction. Was there anyone else at the bank that you spoke to about purchasing the Levi Strauss building?

A I think Don Denton He made me fill out

A I think Don Denton. He made me fill out or sign some forms so they could take something to the loan committee and get the loan approved.

12 Q Did you discuss either with Mr. Young or 13 Mr. Denton the fact that you may be concerned about 14 the purchase at all?

A I very well could have. I mean, everybody knew that I owned that building before I ever saw it. You don't buy a \$500,000 building sight unseen.

18 Q How did that come about that you owned the 19 building before you saw it?

A I didn't have time to go out and look at it. They were in a hurry to get this thing

22 processed. As long as I had nonrecourse financing, I

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1 didn't care.

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Q Do you have any understanding why they were in a hurry to get the building purchased?

A I imagine to get it off the books.

Q Was there something coming up that they needed to get this off the books?

A I guess maybe they thought the examiners were coming. I mean, that's the only thing -- no, I don't know of anything in particular. I imagine that could have been it.

11 Q Did you have any other loans at Madison at 12 the time?

13 A At that time, no. But in conjunction with 14 that one, I got a loan for the revenue office across 15 the street.

Q At the same time?

17 A Well, it was about one or two or three days
18 later I told McDougal that I wanted to buy the
19 revenue building across the street. I think both
20 loans were processed at the same time.
21 O Now, was the purchase of the revenue

Q Now, was the purchase of the revenue building something you had been thinking about prior

71 to this meeting with Mr. McDougal about the Levi 1 2 Strauss building? 3 Α No. How did it come to your mind that you would 4 5 do this at the same time? 6 Well, if he was in the business of selling property, I felt like that was a good business 7 8 investment. I tried to get the same terms and 9 conditions on the purchase of the revenue building 10 that I got on the Levi Strauss building and I 11 couldn't. 12 That is, nonrecourse loan, 10 percent 13 commission which would go for the down payment? 14 No, I wasn't trying to get a 10 percent 15 commission. I was trying to get a 10 percent interest rate, which at the time would have been 16 17 below market. 18 The interest rate you got on the Levi 19 Strauss building, was that below market? 20 10 percent. Α 21 That was below market? 0 22 Α Yes. 72 1 What was market at the time? 2 I don't know. The interest rate I got on the revenue building was 11 percent. I certainly 3 could not have gotten a better rate anywhere else. 4 It was at least 11. I did not get any real estate 5 commission on the purchase of the revenue office. 6 7 So, the down payment for the revenue office 8 basically came out of your own pocket? 9 Yes. Not only that, I thought I was doing 10 them a favor. I could get another \$70,000 off the 11 books. I was trying to help out. It was my idea. 12 Were there any attorneys involved in the 13 transactions, either of them? No. I drew up the nonrecourse language 14 15 myself. 16 0 Was there an actual closing for this loan? 17 We were sitting in Greg Young's office and he handed me a check for \$50,000. I signed it and 18 handed it back. 19 20 That was the down payment for the Levi

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Strauss building?

Yes.

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73 1 Q What about the loan on the revenue 2 building? Was there any sort of closing for that 3 loan? 4 Α Not that I remember. 5 0 Was there an appraisal for the Levi Strauss 6 building at that time? 7 I think there was. A Do you know who did the appraisal? 8 0 9 I think some guy named Betz or something Α 10 like that 11 Do you know what the property was appraised 0 12 at? 13 A million dollars or some ridiculous 14 amount. 15 "Ridiculous" meaning --0 16 Α -It certainly was not worth that. 17 Was that appraisal done prior to or after the quote, unquote, closing of this deal? 18 19 I think it was done prior, but I'm not 20 sure. It had no bearing on the sale or closing or 21 anything else. 22 Do you recall seeing the appraisal prior to 74 1 the closing? 2 No. At some point. I think it was after 3 the closing. It would not have made any difference 4 if the appraisal was there or wasn't there or what it 5 was for or anything. 6 Do you have any idea about how much the 7 property was worth at that time? 8 What it was really worth? 9 0 Yes. Well, I can only guess. Probably 3- or 10 11 \$400,000 12 So less than half of what it was appraised 0 13 at? 14 Less than a million --15 0 Less than half a million. 16 I tend to appraise things on the low side. 17 A fire sale, you probably could have easily gotten 250. It may have been worth 450 or 5, but it wasn't 18 19 worth a million. 20 Did you have any other dealings with 21 Mr. Betz?

No. I didn't have any dealings with him

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Α

1 then. 2 You didn't discuss the appraisal with him? 0 3 Not that I recall. I didn't order it. I Α 4 don't know who ordered it. 5 Do you know of any other individuals who were asked to buy this property who may have refused? 6 7 No. What you said is the first I ever heard that. I didn't know anyone else refused. 8 9 Did you know anyone by the name of Bob O Nash? 10 11 A No. 12 Did you have any business dealings with --13 strike that. 14 The loan to purchase the building was \$525,000; is that correct? 15 16 Α Yes. 17 0 And you made a \$50,000 down payment with the 10 percent commission check on the loan; is that 18 19 correct? 20 Uh-huh. Α 21 0 Were there any -- was there anyone else 22 involved in the ownership of this property? 76 1 No. 2 Did Madison Financial Corporation have an 3 option to buy back the property? 4 No. To clarify, the intent was I wasn't 5 going to own that for 30 years. The thinking was 6 that would be one of the properties that would be 7 syndicated and I would sell it back, but if I could 8 make any money off of it, I think I was supposed to be able to keep any kind of profit. That was like an 9 10 incentive, an employee incentive or something like 11 that. Unbeknownst to me, it wasn't worth the 12 \$525,000, so no money to be made. 13 What eventually happened with the property? I gave it back to them. Well, when Madison 14 15 kind of started unraveling, I called Steve Cuffman and asked him if he knew what was going on, was he 16 17 aware of everything that had taken place. He was on 18 the board of directors and I assumed he was. And he 19 wasn't aware of what was going on. When I told him, 20 we agreed that we needed to unwind this thing.

What are you referring to when you say "what was going on"?

21

77 1 Specifically with my building. Α 2 And this was a nonrecourse loan? 0 3 Uh-huh. Α 4 And did there come a time when the 0 5 documents were changed to make it a recourse loan? 6 Yes. 7 O Could you explain how that came about? 8 Well, I was given a document that was very 9 similar in all respects to the one I had originally 10 signed and said here, sign this. 11 Who gave you that document? O 12 A Don Denton. 13 And when did that occur? 0 Well, in the hallway one day. I don't know 14 A 15 when. 16 Were the examiners there at that time? 0 17 They were either there or due. A 18 Were you aware -- was it common knowledge 19 at the bank that the examiners were coming prior to 20 the time they arrived? 21 Yes. A 22 How much in advance of their arrival did 78 1 the bank or employees of the bank know that the 2 examiners were coming? 3 Well, I suppose the people involved in that 4 more directly would have certainly known more than I 5 would. I was always told they are coming next week and they wouldn't come. That went on literally for 6 7 months 8 Did that start in either late '85 or early 0 '86 or do you recall when? You testified earlier 9 10 that you believe they came around February '86. 11 Α Uh-huh. 12 So it was a month prior to that or two 13 months prior to that when they were expected? I don't know the exact dates. But I know 14 15 that they were always going to come next week and didn't come and that went on for quite a while. At 16 17 least that's my recollection. Some people may have known they really were going to come on a certain 18 19 date, but I didn't.

So, getting back to what we were discussing

before, Don Denton gave you papers and said sign

these. Could you explain what those papers were.

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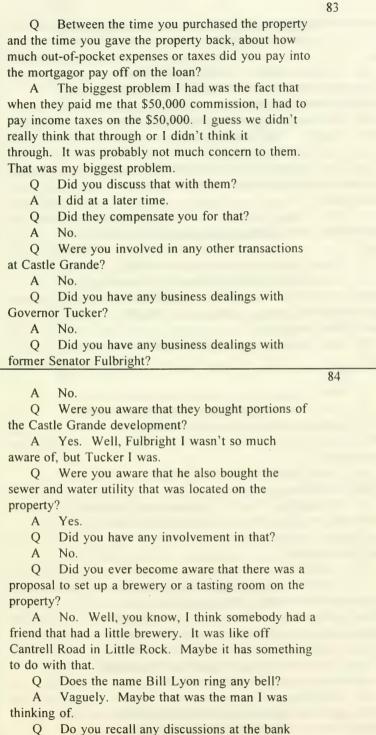
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79 The note looked exactly the same and had no 1 2 nonrecourse language on it. 3 What did you say to Mr. Denton at that 4 time? 5 I was not interested in signing it. There 6 is no incentive. Why would I? 7 What was his response? 0 8 Sign it or else. Α Or else what? 9 0 Well, I guess or else you are out the 10 11 door. They couldn't really force me to sign it other than hanging my job over my head. 12 O So what happened next? 13 Well, I felt like I had no choice but to 14 Α 15 sign it. I didn't much care for it. I guess in the 16 back of my mind I felt like it was totally invalid. 17 If it ever came down to it, it would not stand up, it would still be a nonrecourse loan, because I think it 18 19 is called an aleatory contract where if you are 20 forced to sign something under duress, it is not 21 valid. I didn't like it, but under the 22 circumstances, I didn't feel like I had a whole lot 80 1 of choice. I didn't want to go out looking for 2 another job. 3 Other than Mr. Denton, was anyone else 4 involved in changing the loan documents to make it a 5 recourse loan rather than a nonrecourse loan? 6 I'm sure Mr. Latham was. 7 How about Mr. McDougal? 0 8 I have no idea. I would expect him to know 9 about it, but I could not say for a fact that he 10 discussed it with me or anything like that. 11 Trying to pinpoint this at a time, was this 12 when Mr. McDougal's office was at the bank or when he 13 moved out to Castle Grande? 14 I don't remember. 15 Again, trying to set it in time, was it 16 before that weekend when everybody came in to clean 17 up the loan files? 18 I think so. A 19 So, it was prior to when the attempt was 20 made to have people come in over the weekend to clean 21 up the appraisal files and the loan portfolios? 22 I can't say for sure, but I think so.

81 1 Q But around the same time probably? 2 Α I don't know. 3 O Did you have to fill out a personal 4 financial statement with the loan application? 5 Α Yes. 6 0 And was that prepared after the loan went 7 through or before? 8 Probably after. Let me put it this way. 9 The loan was not contingent upon what was on that financial statement. 10 Other than this appraisal by Mr. Betz on 11 the Levi Strauss building, which I believe you may 12 13 have referred to in another statement that you have 14 given as a joke, were you aware of any other 15 inaccurate or forged appraisals at the bank? I think every one -- when I say every one, 16 17 I suppose that you kind of thought that maybe some of 18 their appraisals weren't just entirely perfect or up to snuff. They were a little loose in the appraisal 19 20 process. I don't know why I had that general 21 feeling, but I did. 22 Q And again, at the end of the day, basically 82 you quit claimed the property and let them foreclose 1 2 on it: is that correct? 3 No. it was never foreclosed. A 4 O You gave it back? 5 Α 6 0 Did you get anything in return? 7 Α No. You just got released from the mortgage? 8 0 9 Yes. I guess they released the mortgage. I imagine I quit claimed it back. I don't know if I 10 11 did a warranty deed or what I did. I don't remember 12 the specifics of that. It was never foreclosed on. Before you gave the property back, were the 13 14 loan documents changed again to make it a 15 nonrecourse? 16 Α So on the books it was still recourse? 17 0 I don't know about on the books. I don't 18 19 know what they did. 20 You never changed it back again? They never said come in and sign another 21

22

note or anything, no.



1 about the brewery?

A About the brewery? No, I wasn't aware of that.

Q Do you recall any discussions at the bank with regard to the sewer and water development that was later known as Castle Sewer and Water?

A Nothing other than the fact that Jim Guy Tucker bought it. That's pretty much it.

Q Do you recall being aware of an agreement between Mr. Tucker and Mr. McDougal with regard to how many hookups the utility would have at the development?

A I'm aware of that now, but I don't know if I learned that from reading the papers or while I was there.

Q What is your understanding of that now?

A I think McDougal guaranteed him X number of connections that would provide a certain amount of revenue that would help, I guess, pay off the debt when Tucker bought it.

Q Did you know anything about that at the time?

A No.

Q Did you know or did you become aware of any kind of legislation that regulated whether that utility could service buildings or houses outside the development?

A I don't recall anything like that. It certainly could have happened.

Q Do you know whether the Rose Law Firm was involved in providing counsel to Madison with regard to any issues involving the utility or the sewer and water development?

A I wouldn't have any reason to know that.

Q I think that another thing that you said you were involved with is developing the -- renovating the Main Street property. I want to ask a couple questions. If you could explain to me what that was. I think you explained very vividly what the area of town was like. If you could explain what the actual project that you worked on was.

A Well, one project that I worked on was a building up at the corner of -- that would probably be about 10th or 11th Street and Main that was a

87 horrible apartment complex that McDougal purchased. 1 I worked with some architects for a long period of 2 3 time about plans to redo that into a pretty nice office building, but it never happened. 4 5 Anything else come to mind? 6 Well, I was just kind of aware of what was Α 7 going on, who owned what building up and down the 8 street, just trying to stay on top of it in case 9 there were any questions. I think I got a couple of demolition permits from the city. Jim Guy Tucker may 10 have owned them. I don't know who owned them. But I 11 12 knew how to do that. I either was told to do it or 13 volunteered or something. 14 Were you involved in leasing any of the space that Madison purchased down in that area? 15 16 I don't think so. 17 0 Were you involved in leasing any space that 18 Madison owned? 19 I don't think Madison owned any space that 20 they could lease out except what was in their own little office building. I don't think they owned any 21 leasable space except their own building. 22 88 1 What about Madison Financial Corporation? 2 I don't think they owned any leasable 3 space. You mean like another building located somewhere? 4 5 Q Yes. 6 The ADFA building? It is within Madison 7 Savings and Loan. It is not a building. It is an 8

office suite in the Madison building.

So they leased office space to ADFA. Did you have any involvement in the ADFA lease?

They were already in there and I may have talked to them about renewing or expanding their lease. I really don't remember. But like I say. they were in the building, my recollection, when I started.

0 Do you recall anything about the terms of the lease?

Α No. I think they complained it was too expensive and the parking wasn't good and I think they moved out.

Was that the extent of your knowledge?

Yes, very limited. Α

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89 1 MS. FISHER: If we could take a quick 2 break. 3 (Recess.) 4 BY MS. FISHER: 5 O I know I asked you before, Mr. Fitzhugh, if 6 you had any dealings with the Arkansas Securities 7 Department, either Beverly Bassett-Schaffer or anyone 8 else with regard to the stock deal, and I want to ask 9 you the broader question now. 10 Did you have any dealings with the Arkansas 11 Securities Department or Mrs. Schaffer throughout 12 your tenure at Madison about anything dealing with 13 Madison? 14 All I can say is none that I recall. If I 15 did, I just don't recall it at this time. 16 You said that you gave some statements 17 prior to Mr. McDougal's trial in 1989 and '90. Did you testify at that trial? 18 19 Α Yes. 20 0 What was the substance of your testimony? 21 Well, I just kind of outlined how the Levi 22 Strauss building transpired from Madison to myself 90 1 back to Madison and what I knew about it. That was 2 pretty much it. 3 0 Did you testify about anything else? 4 I may have, but I don't remember. I may 5 have testified about the revenue office building or 6 anything else they asked me, but I just don't 7 remember. Have you got a copy of my deposition --8 No, I don't. -- or testimony? 9 Α Q No, I don't. That hasn't yet been produced 10 11 to the Committee. I can't refresh your recollection 12 with that. I apologize. 13 Other than investigators and testifying at that trial, have you had any discussions with anyone 14 else about these matters? 15 16 A Other than the FBI? 17 Q Yes. 18 No. I mean, Don Denton ran into me one 19 time and said something like have they contacted you or something like that. That has been pretty much 20 21 it.

Q Were you ever contacted by anyone other

91 than Mr. Denton about your testimony regarding 1 2 Madison or your statements regarding Madison? 3 What time frame are you talking about? 4 Any time -- let's take it from '92 --0 5 Α You mean like reporters? 6 Let's take it from 1992 to the present. 7 Have you been contacted about your involvement in 8 Madison other than reporters and investigators. 9 No. I have never talked to any of the other 10 employees. I talked to the FBI so many times I can't remember. That's it. 11 12 Other than the Levi Strauss building 13 transaction which we discussed today and the other 14 things which you testified about regarding your 15 employment at the bank, is there any other knowledge 16 you have which is relevant to the investigation into the solvency and operations of Madison Guaranty? 17 18 No. 19 MS. FISHER: Off the record. 20 (Discussion off the record.) 21 BY MS. FISHER: 22 During your time at Madison, did you have 92 1 any dealings with the governor's office, Governor 2 Clinton's office? 3 Α No. 4 Did you work on any of Mr. Clinton's. 5 campaigns? 6 Α 7 Did you have any dealings with a woman by 8 the name of Betsy Wright? 9 Α No. 10 O Did you deal with anyone in the Governor's 11 office regarding the ADFA leases? 12 I may have. I don't remember. I suspect ADFA was another one of these jobs where they were 13 14 trying to find something for me to do and they said 15 go extend this or go lease them some more space or 16 something like that. 17 Did you know at the time you worked at 18 Madison that Mr. McDougal was a business partner of 19 Mr. and Mrs. Clinton? 20 Α I don't know if I knew that back then or 21 not. 22 0 Did you hear any discussions of Whitewater

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1	Development Corporation while you were at the bank?	
2	A Again, I don't remember. If so, they were	
3	just of no consequence. Certainly nobody down there	
4	thought it was significant or a big deal or	
5	impressive or anything that he was in a project with	
6	the governor.	
7	Q Did you know of any projects Mr. McDougal	
8	was in with Governor Tucker?	
9	A Well, I mean I knew Tucker owned some	
10	property on Main Street and the thing out on 145th	
11	Street. That's really all I can remember.	
12	Q Did you know a gentleman by the name of	
13	Chris Wade?	
14	A Yes.	
15	Q Did he have any business dealings at the	
16	bank?	
17	A He was involved in the Campobello thing.	
18	Q Had you ever had occasion to meet with	
19	Chris Wade or have any discussions with Mr. Wade?	
20	A No.	
21	Q Do you know what the extent of his	
22	involvement at the Campobello project was?	94
1	A No. Well, of course he also worked on	74
2	the Whitewater thing. I think he was kind of a	
2 3	the Whitewater thing. I think he was kind of a salesperson. I think he worked on both projects.	
2 3 4	the Whitewater thing. I think he was kind of a salesperson. I think he worked on both projects. Q Did you know of his involvement in	
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1	Q Have you ever have any discussions with	
2	Mr. McDougal's attorney, Sam Heuer?	
3	A No.	
4	Q Have you had any discussions with a man	
5	named James Blair?	
6	A No.	
7	Q Were you ever contacted with regard to	
8	Madison during the 1992 presidential campaign?	
9	A No. By who?	
10	Q By anyone other than the press.	
11	A No.	
12	MS. FISHER: I think I am finished.	
13	Mr. Bartolomucci will ask a few questions if you	
14	don't mind.	
15	MR. COLE: Off the record.	
16	(Discussion off the record.)	
17	EXAMINATION DV MP. PARTOLOMUCCI.	
18	BY MR. BARTOLOMUCCI:	
19 20	Q Mr. Fitzhugh, are you aware of a fundraiser	
21	held on April 4, 1985 at Madison Guaranty to benefit Bill Clinton?	
22	A Yes.	
	96	
1	O Do you know who organized the fundraiser?	
1 2	Q Do you know who organized the fundraiser?	
2	Q Do you know who organized the fundraiser?A No, but I suspect it was McDougal.	
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asked me what exactly transpired, because I told 2 them -- I'm sure you are going to ask me the same 3 question -- were you asked to make a political 4 contribution, and I was, and I declined. 5

I have no recollection whatsoever what the language was, but I remember having the impression that if I had agreed to make a donation, that I don't think it would have cost me anything. But I cannot tell you why I have that impression. It just was not a big deal to me.

Have you discussed the fundraiser with anyone other than the press or reporters?

Or the FBI. No.

O Or the FBI, ves.

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16 O Was it John Latham who asked you to make 17 the contribution?

18 I think so, but it has been so long I would 19 not want to say for 100 percent certain that it was. 20 I cannot say that.

21 It was your understanding from this 22 conversation that you would be reimbursed somehow?

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I think I got that impression. I have no idea why I feel that way. Maybe I read something 3 into it that wasn't there and I don't know what language was used or anything else. But I know from reading the papers that apparently maybe that did 6 take place.

Do you have any firsthand knowledge of reimbursements taking place for those who made contributions at the fundraiser?

Α No firsthand knowledge whatsoever.

What have you heard about the same topic, 11 12 other than what you read in the press?

That's it, what I read in the newspaper.

0 Did I ask you whether you attended the fundraiser?

A You didn't ask me, but no, I didn't go.

You didn't go. There is a Wall Street Journal article of January 31, 1994 which says you were approached by a senior Madison executive about making a contribution. Is that a reference to Latham?

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22 Exactly. Can you recall anything at all about what

They stuck their head in the door -- at

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going to be reimbursed?

least that's my recollection -- kind of said hey, we are having a fundraiser tonight, do you want to make a contribution, do you want to come, and I wasn't interested.

Latham or whoever this person was, what they said

that left you with this impression that you were

Nothing of that sort would really lead you 0 to conclude that you were going to be reimbursed. Was there something else that was said?

I have no idea why I got that impression. As I told you, as I read in the paper, apparently someone else had that impression as well. Then I don't know what my basis was for it. But I guess it was an accurate impression, because it apparently happened. But I don't know what was said to me.

No one has told you that they were reimbursed with respect to making a contribution?

A No. I thought I read in the paper that one person said he was reimbursed.

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Is there anything else you know about the fundraiser that you would like to share with us?

No. I don't know anything other than what I read in the paper.

You don't know how many people attended?

Α No.

Or how much money was raised? 0

Α No.

0 Do you have any association in your mind between the fundraiser and lease contracts?

No. People have hinted at that before, as far as a result of that did Madison either get the revenue office downtown or did ADFA extend their lease or something like that. Nothing that I'm aware of. If anything occurred, it was totally unbeknownst to me.

Were there any other fundraisers held at O Madison?

Well, there were several parties or things like that down there. I went to one or two of them. But I don't remember what they were for. Maybe they were just parties. I don't know.

1	Q Do you remember any sort of political	
2	fundraisers taking place other than this one?	
3	A No.	
4	Q Did you ever talk to Mr. McDougal about the	
5	fundraiser?	
6	A Not that I remember. No, I don't think	
7	SO.	
8	Q Would you have any idea about who attended	
9	the fundraiser?	
10	A No. I wasn't there. I'm sorry.	
11	MR. BARTOLOMUCCI: I think that's all I	
12	have to ask about.	
13	MR. COLE: Off the record one moment.	
14	(Recess.)	
15	EXAMINATION	
16	BY MR. PORTNOY:	
17	Q Good afternoon, sir. My name is Jim	
18	Portnoy. I am counsel for the Minority. I have just	
19	a few follow-up questions.	
20	You testified earlier that in your	
21	estimation, Mr. Latham was really the chief	
22	administrative force at the bank?	
22	administrative force at the bank:	
		102
1	A Yes.	102
1 2	A Yes. Q He made the day-to-day administrative	102
1 2 3	A Yes. Q He made the day-to-day administrative decisions?	102
1 2 3 4	A Yes. Q He made the day-to-day administrative decisions? A That's my understanding, as far as running	102
1 2 3 4 5	A Yes. Q He made the day-to-day administrative decisions? A That's my understanding, as far as running a banking operation.	102
1 2 3 4 5 6	A Yes. Q He made the day-to-day administrative decisions? A That's my understanding, as far as running a banking operation. Q In your estimation, would that have	102
1 2 3 4 5 6 7	A Yes. Q He made the day-to-day administrative decisions? A That's my understanding, as far as running a banking operation. Q In your estimation, would that have included the authority to retain counsel?	102
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there: is that correct?

A I just know there were more than three of us there, the three being myself, Latham and Massey. I don't remember who else was there. She may have been there and she may not.

Q You considered Mr. Massey to be the principal lawyer at the Rose Firm that you were dealing with?

A Yes.

Q If you had to call the Rose Firm on a legal matter, you called Mr. Massey?

A I don't have much recollection of anything like that, but that is the only person I can sit down right now and say I remember talking to at the Rose Law Firm.

Q So, you don't have any specific recollection of ever speaking to Mrs. Clinton about bank business?

A No, nothing specific.

Q You were asked earlier about the IDC purchase.

A Yes.

Q At the time of the purchase, did you refer to that as IDC? How did you refer to the project at the time that the purchase was contemplated?

A Well, I think I found out about it after the fact. I mean, I believe it was already a done deal before I knew anything about it. To me, it was always the IDC project. It wasn't Castle Grande.

Q Castle Grande you testified didn't even exist at the time of the purchase?

A I don't think it did. I may be wrong, but I don't think it did.

Q And in your mind, it is quite clear that IDC and Castle Grande were separate entities?

A It is clear in my mind.

Let me tell you this just to be fair about the IDC. I knew about the IDC for years before I worked at Madison because it was run by a family friend who at the time I think was deceased when Seth Ward bought it from him. I already knew what IDC was.

Q In your mind, it was the IDC land parcel?

A Exactly, yes.

105 1 In fact, it included pieces of land that 2 were not contiguous? 3 Α Exactly, ves. 4 It was just a basket of land owned by IDC? IDC, Industrial Development Corporation, 5 6 that's what their business was. 145th Street was an 7 industrial park, and 65th Street was an industrial park. They may have owned land somewhere else. 8 Those are the only two I'm aware of. 9 You indicated you called Mr. Cuffman after 10 11 he assumed control of the bank to apprise him of the Levi Strauss building situation? 12 13 Α Yes, I did. He had no knowledge of the transaction you 14 0 15 indicated? 16 Α I'm certain, or I feel certain he knew I 17 owned the Levi Strauss building. I don't think he 18 understood the circumstances leading up to my purchase or what the true nature of the loan was. 19 Would you describe him as surprised when he 20 21 learned? 22 Extremely surprised and concerned. A 106 1 Mr. Cuffman was a member of the board of 2 directors of the bank, was he not? 3 I believe he was, yes, and a friend of John 4 Latham. 5 0 Were you surprised at his lack of 6 knowledge? 7 Yes. To me that was indicative right there 8 of something wrong. 9 Did you come to learn that there were other 10 transactions that had occurred as to which few people 11 at the bank had knowledge? 12 Only since I left Madison, yes. But since you have left Madison, you have 13 14 come to learn that there were other transactions as 15 to which few people had knowledge? 16 Transactions very similar to mine where you were told you were going to own a building and the 17 package was basically put together and all you had to 18 do, I suppose, was sign. 19 20 Was it in your estimation Mr. McDougal's style or common for Mr. McDougal to make arrangements 21 of this sort and to keep them close to the vest? 22

Well, I guess -- I certainly feel that way at this point. I mean, when I started feeling that way, I'm not really sure. Like I said, he was kind of the arranger and the deal maker and everyone else was more or less like a detail person.

- So. Mr. McDougal had a lot of balls in the air at the same time?
 - I think so, yes, yes.

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O And individual bank employees or individual investors were perhaps apprised of some of the details of their particular transactions but not of general matters?

We knew of our own but not others, that's correct. I certainly had no idea, other than what Larry Kuca -- that I mentioned, I knew he bought something else. But I didn't know anything else.

In fact, there were a substantial number of details about your own transaction that were not brought to your attention; isn't that true?

Yes, there were, a substantial number that I didn't find out about until after the fact.

Q So, to your mind, it is perfectly

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reasonable that somebody could be engaged in business with Mr. McDougal and have no idea the full extent of his business dealings even with respect to their own project?

Α That occurred in my case.

MR. PORTNOY: That's all I have, sir. I thank you for joining us.

MS. FISHER: I have one more point of clarification.

EXAMINATION

BY MS. FISHER:

Q I have a document that is BRP 00401. It is an exhibit that was attached to a report by the name of Borod & Huggins. Are you familiar with that?

I have heard the name. They are out of Memphis, aren't they?

They are. It seems to be a map of this property. It is a called "Property disposition,

19 Castle Grande feasibility study." Have you ever seen this map?

- 21 Α Probably.
 - Could you explain to me if you know, to the

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extent you know, where everything is around here. 1 what this is. It is really hard to read for me. I 2 3 haven't been quite able to make heads or tails of 4 it 5 I suspect this number 1 is the Levi Strauss 6 building. This is 145th Street right here. It is not an interstate. It is the road to Pine Bluff. 7 MR. COLE: 65 South. 8 9 THE WITNESS: This is 145th Street. All this in here came to be known as Castle Grande. 10 BY MS. FISHER: 11 All this in here or up here? 12 0 This to me was Castle Grande and this was 13 14 not. Everything below 145th Street, which was 15 0 the 400 acres that Madison Financial bought; right? 16 17 A That's what you consider is known as Castle 18 0 19 Grande? 20 Α That's what I did. I guess the confusion that I have is these 21 0 22 properties up here, 1 being the Levi Strauss 110 building, and then this number 3 I believe is the 1 tract that was sold to former Senator Fulbright, 2 according to the report at least, and it is all on 3 4 this document called "The Castle Grande feasibility 5 study." 6 It talks about all the different land that 7 is sold and internal bank documents as well. They 8 call this all Castle Grande. 9 Are you aware that at least some people in the bank considered the entire project, or is it your 10 11 understanding that it is the 400 acres where the 12 trailer park is? 13 That's how I thought of it. Is the trailer park in one section or just 14 this whole portion down here south of 145th Street? 15 I don't think it ever got developed because 16 17 all that ever happened is there were a bunch of trailers -- not trailers -- there was manufactured 18 housing along this street in here with some open 19 20 streets that were cut in.

I haven't been out there in so long so I

don't know. They were intended to go back in here

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111 and I guess kind of loop together. You have a flood 1 way in here. So there was a limited area. They 2 3 could never develop in here anyway. 4 Because of the flood. Yes. I think one of these was Master 5 6 Developers. 7 Do you know where the utility was on this 8 map, the sewer and water project? 9 No. I don't. 10 MS. FISHER: I appreciate your help. I appreciate your help as well, Lance. Now I know 11 where I-65 is. 12 13 MR. COLE: It is not an interstate. I'm 14 always happy to help out. 15 **EXAMINATION** 16 BY MR. BARTOLOMUCCI: 17 In this Wall Street Journal article, it quotes you as saying "I was left with the distinct 18 impression that I would be reimbursed. It wasn't 19 something I wanted to get involved in." 20 First of all, is that an accurate 21 22 statement? 112 1 I wouldn't have gone to that thing under 2 any circumstances, I mean, had they not offered to reimburse me or had they walked in with money in 3 4 their hands. 5 I already had plans that night, something I was going to do. Nothing they said really made any 6 difference to me. It is certainly not something I 7 8 would want to get involved in with someone giving you 9 money or saying whatever is going to take place. I iust wasn't interested. 10 11 MR. BARTOLOMUCCI: Thanks. 12 **EXAMINATION** 13 BY MR. PORTNOY: 14 One quick follow-up. Did you ever discuss the fundraiser in any way with Mr. or Mrs. Clinton? 15 A 16 No. To your knowledge, would they have any 17 18 reason to know that you believed you might be 19 reimbursed for the contribution? 20 Certainly not from my standpoint, no. Α

To your knowledge, would they have any reason to know that anybody was being reimbursed or

1	thought they might be reimbursed for a contribution?
2	MS. FISHER: That calls for total
3	speculation.
4	MR. PORTNOY: To his knowledge.
5	THE WITNESS: My answer is no.
6	(Whereupon, at 3:25 p.m., the deposition
7	was concluded.)
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10	DAVIS FITZHUGH
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I, BRENDA M. SMONSKEY, the officer before whom the foregoing deposition was taken, do hereby certify that the witness whose testimony appears in the foregoing deposition was duly sworn; that the testimony of said witness was taken in shorthand and thereafter reduced to typewriting by me or under my direction; that said deposition is a true record of the testimony given by said witness; that I am neither counsel for, related to, nor employed by any of the parties to the action in which this deposition was taken; and, further, that I am not a relative or employee of any attorney or counsel employed by the parties hereto, nor financially or otherwise interested in the outcome of this action.

Brenda Showkey

Notary Public in and for the

District of Columbia

My Commission Expires

SEPTEMBER 14, 1996



DEPOSITION OF WILLIAM H. KENNEDY, III IN RE: S. RES. 120

MONDAY, JANUARY 15, 1996

U.S. Senate,
COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS,
SPECIAL COMMITTEE TO INVESTIGATE WHITEWATER
DEVELOPMENT CORPORATION AND RELATED MATTERS,
Washington, DC.

Deposition of WILLIAM H. KENNEDY, III, called for examination pursuant to notice of deposition, at 10:10 a.m. in Room 534 of the Dirksen Senate Office Building, before JOANNE LIVERANI, a Notary Public within and for the District of Columbia, when were present:

ROBERT J. GIUFFRA, JR., Esq.
Majority Chief Counsel
NEAL E. KRAVITZ, Esq.
Minority Principal Deputy Special Counsel
U.S. Senate
Committee on Banking, Housing, and Urban Affairs
534 Dirksen Building
Washington, DC 20510
On behalf of the Committee.

PAUL V. CASTELLITTO, Esq. Sharp & Lankford 1785 Massachusetts Avenue, NW Washington, DC 20036

ALDEN L. ATKINS, Esq. Vinson & Elkins The Willard Office Building 1455 Pennsylvania Avenue, NW Washington, DC 20004 On behalf of the Deponent.

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EXHIBITS

William H. Kennedy, III	
Deposition Number	IDENTIFIED
Kennedy Exhibit 1	153, 1073

for me to do is to just hand these to you and share

	5
1	yours. Let me begin, do you know why the documents
2	were turned over to committee on January 14, 1996?
3	A No.
4	Q Do you know why they were not turned over
5	to the committee earlier?
6	A No.
7	Q Have you discussed these documents with
8	anyone other than your counsel?
9	A No.
10	Q When did you learn of the discovery of
11	these documents?
12	A Last night.
13	Q Okay. Let's just go through the first
14	document which bears Bates number 12595. Across the
15	top it says "1992 audit" and then there appears to be
16	sort of a star underneath that and then some writing
17	and then another star. Was there writing above and
18	below the writing that's here?
19	A Yes.
20	Q So this has been redacted?
21	A Yes. Q Do you know when you would have prepared
22	
	6
1	this document?
1 2	this document? A I would assume somewhere around November of
1 2 3	this document? A I would assume somewhere around November of 1993 based on the date that's on 12596.
1 2 3 4	this document? A I would assume somewhere around November of 1993 based on the date that's on 12596. Q Do you know anything do you recall
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1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19	this document? A I would assume somewhere around November of 1993 based on the date that's on 12596. Q Do you know anything do you recall anything about the circumstances under which this document was prepared? A Yes. These are notes of a meeting, to work on the President's 1992 tax return and 1993 tax return. Q And who attended that meeting? A Bob Jones, David Kendall, Mike Berman, Bob Barnett, Beth Nolan and Steve Neuwirth and me. Q So the note the notes bearing Bates number 12595 relate to the meeting that was held on November 4, 1993? A I believe so. It is very difficult for me to tell from the way they are presented here, but I believe that's the case. Q Who is Bob Jones?

A To tell you the truth, I am not sure

1 exactly when I knew that.

Q Do you recall who advised you that Mr. Kendall has been retained to be the Clintons'

lawyer with regard to Whitewater matters? Not specifically, no. Probably Bernie, but

I don't recall specifically.

At this meeting on November 4, 1993, as you just testified, there was discussion as to how to treat, on the President's 1992 tax return, his sale of Whitewater shares to Mr. McDougal; is that

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Well, I think a better way to say it is Α this: I don't remember when his 1992 income tax return was actually filed. But the President's tax returns are audited as a matter of course every vear.

17 Q By the IRS?

18 Yes. And this meeting, was to, I believe, 19 discuss the tax treatment of the Whitewater sale on 20 the President's 1992 tax return, among a whole lot of other things. This was a very minor part of it. 21 22

Q The purpose of the meeting was to generally

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discuss possible issues that might come up in an audit of the President's 1992 tax returns?

And to start getting ready for the preparation of the 1993 tax return, and to, as part of that, Mr. Jones was sort of new to the scene, to get him familiar with issues is the way he put it.

Were you aware Mr. Foster had been involved in certain issues with regard to the tax treatment of the Clintons' sale of the Whitewater investment?

Not contemporaneously, but through press reports, yes.

So you learned after this meeting of November 4, 1993, that he was involved --

Well, no, I think that had been reported in the press prior to this meeting, Bob, and I think I knew it from those press reports beforehand.

Q But you and Mr. Foster never discussed the tax treatment of the Clintons' sale of their

19 Whitewater shares? 20

No.

Just so I can understand what it says,

22 12595 across the top, says, is that "agreement to

11 discuss reporting of income from Whitewater"? 1 2 Which one are you on? 3 12595, this one right here. 0 4 Okay, no, it says "agent to discuss 5 reporting of income from Whitewater," not "agreement," "agent to discuss reporting of income 6 from Whitewater." 7 8 MR. KRAVITZ: Mr. Kennedy, do you think 9 that these two pages of notes are actually Bates 10 stamped backwards? THE WITNESS: Actually, I do, but I don't 11 know who did it and I can only speculate, but I 12 13 believe it goes like this. 14 BY MR. GIUFFRA: 15 You think 12596 is the first page and 12595 16 is the second page? 17 Yes Α 18 MR. KRAVITZ: Because 96 has the list of 19 people. 20 THE WITNESS: Yes. 21 BY MR. GIUFFRA: 22 Q What does the notation "agent to discuss 12 1 reporting of income from Whitewater" mean to you, as 2 you sit here today? 3 If you turn to what is -- what is it, Bates Α 4 or date? 5 0 Bates. 6 If you turn to 12596, you will see on the 7 page, it says, "House sales proceeds," and then 8 you've got a star where it says A and B and then it 9 says "\$1000, Whitewater." Mr. Jones had previously 10 been advised by the agent to conduct the audit that the agent wanted to discuss the tax treatment of the 11 Whitewater shares, sale of the Whitewater shares. 12 13 Did Mr. Jones indicate the name of the O 14 agent? 15 Α No, I don't think so. 16 O Do you know the name of the agent who was 17 conducting the audit? No, I do not. 18 Α 19 0 Do you know when the agent conducted the 20 audit? 21 Precisely, no. It was -- I believe it was

relatively close to this meeting date, but I don't

1 know when.

Q And so Mr. Jones had been in communication with the IRS agent who was conducting the audit of the President and Mrs. Clinton's tax returns?

A I believe so.

Q Do you recall anything else that Mr. Jones -- strike that.

The reference on page 12596 where it says "House sales proceeds" and then it has the information redacted, does the redacted material have anything to do with Whitewater Development

Corporation?

A To give you the best answer, I have to see this again, but I will tell that you my recollection is absolutely not. It dealt with other tax issues, but, you know, it's been two years since I took these notes. And I'm just telling you -- my memory is, but I would have to -- to know for sure I would have to look and see.

Q Do you recall the agent -- strike that.
What do you recall Mr. Jones advising you, and the other persons at the meeting, with regard to

what the agent had said about the audits he was conducting of the President and Mrs. Clinton's tax returns as it relates to Whitewater Development?

A Bob, I don't remember specifics. I think that they were looking for, and this is again not recalling specifics, but on a general basis they were looking for justification for, I believe it was reported in the press that the entire \$1000 had been taken as gain, so they were looking for some sort of an understanding of the -- that whole tax treatment, and that would include an analysis of whether zero basis in the shares was correct. Something like that.

Q As far as you know, had the issue of whether the appropriate tax treatment had been taken with regard to the sale of the Clintons' interest in Whitewater been an issue that was reported in the press as of November 4, 1993?

A I believe it had been. I can't tell you specifics, but I believe it had been. I can't remember when the 1992 return was filed. I don't think it was filed, like, on April, I think it was

15 after that, but I can't remember what date it was. 1 2 Now to the right it says "could be" -- this 3 is on 112596 -- "could be done with him" or "discussed with him"? 4 5 It is "done." The word is "could be done 6 with him." 7 0 What does that reference indicate to you? 8 I believe that A. B and C were "material 9 issues," material that had been raised by the agent 10 to Mr. Jones as things he wanted to talk about. And 11 if memory serves me correctly, what Mr. Jones is saying here is that if we can deal with these issues, 12 13 then we will get through the audit pretty quickly. Where it says, on page 112596 underneath, 14 15 "report Bob Jones audit formal request fax," what 16 does that indicate to you? 17 There must have been some correspondence, I 18 guess, regarding the audit. 19 Correspondence with the IRS? 0 20 I believe so. Whether it is to the IRS or 21 from the IRS, I don't know. It could have been 22 Mr. Jones was requesting a meeting, or that the agent 16 1 was requesting a meeting. I just don't know. 2 Do you know what firm Mr. Jones works at? 3 If you gave me a phone book I could probably come up with it, but I can't remember off 4 5 the top of my head, no, I'm sorry. 6 Is it a major accounting firm? 7 I am not -- no, it is not one of the Big 8 8. It is a D.C. accounting firm. Big 6, I'm sorry. 9 MR. CASTELLITTO: Did you say "D.C." or 10 "decent"? 11 THE WITNESS: I presume it was decent. It 12 was a D.C. based accounting firm. It is not a name 13 that you --14 BY MR. GIUFFRA: 15 If we could turn to 12595. 0 It says -- we have already discussed the 16 first entry, "zero basis arrow sale of Whitewater 17 18 shares not have reported enough income arrow no 19 problem"; is that correct? 20 Yes. You are reading it right. Α 21 What does that indicate to you? O

Again, I can't remember the actual

specifics of the conversation, but there may have been an issue, again, around the actual basis reported. In other words, if you get a thousand dollars, you pay tax on a thousand dollars, you basically say you have zero basis in the shares.

Maybe I should turn this way. And there was a discussion of that and question about how they could have gotten to a zero basis, for example, and maybe not reported enough income to offset losses which could, on a capital basis could give you zero basis, something like that, Bob. The discussion was, you know, how could they report a zero basis, went through sort of an analysis of that and concluded that whatever had been done, and I don't know the specifics of that, was enough to come up with a no problem on that.

Q Do you know why the zero basis was reported?

A No.

Q Do you know, again, what the reference to "not have reported enough income" means?

A Again, it in some way ties into the

discussion of basis in the stock in some way, and I can't put much content in it for you. I don't know.

Q The notion that the thousand dollars that was reported as the sale price -- strike that.

Was there discussion of the fact that the Clintons should have reported a negative basis in their Whitewater shares?

A No. What I recall is that -- I mean, you've got Mr. Jones who didn't -- wasn't on the scene when the accounting treatment of the Whitewater share of sales had been come up with. And he is trying to see what he can come up with to say to the agent about basis, can't do it much better than that.

Q And do you recall any further discussion about why zero basis was containing chosen?

A No

Q The question of "not have reported enough income," again, what does that relate to?

A Again, the issue of basis, and reporting the entire sales price as gain and paying taxes on it. I cannot put, although I would greatly love to, much more content in it than that. There was a

19 discussion about, you know, could the zero basis be 1 2 supported, conclusion reached it could be. 3 The discussion of reporting income from 4 Whitewater, is that income from Whitewater over a 5 period of time prior to 1992? No, Bob, it would be -- again, it would be 6 7 in the context of arriving at a basis for the 8 shares. And, you know, that's -- if you recall in 9 your own experience that's normally at a point in 10 time. 11 MR. ATKINS: Just so the record is clear. Mr. Kennedy, by reporting a zero basis, did that 12 13 maximize the taxes that the Clintons paid on the 14 thousand dollars sale price? THE WITNESS: Yes. It did. 15 BY MR. GIUFFRA: 16 17 But you recall no discussion of the 18 consequences of the Clintons reporting a negative 19 basis? 20 No. I mean, we are dealing with historical Α 21 fact at this point. In other words, we are dealing 22 with what had already been done. 20 1 Do you recall any discussion during this 2 meeting of the Lyons report? 3 No. I do not. Α 4 Do you recall any fact that the Lyons 5 report indicated that the Clintons had lost money on 6 their Whitewater investment? 7 I believe it did indicate that. Α 8 And wouldn't the fact that the Clintons

9 lost money on the Whitewater over time have affected 10 the basis of the stock?

11

16

It could have reduced it to zero, right. Α

12 Let's look to the notes bearing Bates

13 numbers 12597 and 98. What do you recall about the 14 preparation of these notes?

15

These are notes of a daily staff meeting that the White House counsel's office had.

17 If you could just list the names of the 18 persons who attended this daily staff meeting at the 19 White House counsel's office.

20 That would be Cheryl Mills, Victoria Radd,

21 "Nuss" is Bernard Nussbaum, "Eggleston" is Neil

22 Eggleston, "Klein" is Joel Klein, "Sloan" is Cliff

		21
1	Sloan. "Waldman," I believe, I think his first name	
2	is Dave.	
3	Q Was he in the White House counsel's office?	
4	A No, he was not.	
5	Q What was his position at that point?	
6	A I think he was with the communications	
7	department in the White House, press office in short	
8	hand. And then "Kennedy" is me, and "Nolan" is Beth	
9	Nolan.	
10	Q Across the top of this, "James Carville and	
11	Paul Begala."	
12	A Right.	
13	Q Did they attend the meeting?	
14	A No.	
15	Q Do you have any recollection as to why	
16	their names were listed at the top of the notes?	
17	A I think that they were overview of these	
18	notes is that discussion was let me see if I can	
19	formulate this.	
20	The counsel's office is talking about a	
21	methodology to respond from the White House's	
22	perspective to Whitewater matters. And Carville and	20
,	Development And in some form	22
1	Begala are political consultants. And in some form or fashion they may have been suggesting that the	
2	White House get a definitive methodology or whatnot,	
3	but they were not present at this meeting. And I	
5	can't say much more than that. In some form or	
6	fashion they were connected with, we got to get our	
7	act together in terms of coming up with responses.	
8	Q Let's go through the notes. The first	
9	entry is "Nussbaum to brief Congressman."	
10	A "Nuss to brief Congressmen," I believe it	
11	is. Then the next entry is "chronology of events:	
12	Neal Eggleston." And then underneath that it says	
13	"documentary record Kendall, principals" with an a,	
14	"Bruce Lindsey," WHK 3 is me.	
15	O What does this reference indicate to you?	
16	A I believe Neil Eggleston was asked to work	
17	on a chronology of events.	
18	Q These would be events relating to	
19	Whitewater?	
20	A Yes, and, you know, his sources for that	
21	would be the documentary record, David Kendall. The	
	principals would be the President and the First Lady,	

- 1 Bruce Lindsey and me.
- 2 What was the purpose of this chronology?
- 3 To provide an information base so we, in 4 this case being the White House, could adequately
- 5 respond to Whitewater matters as they came up.
 - Did Mr. Eggleston subsequently prepare such a chronology?
- 8 Α I don't know.

7

- 9 Was it your understanding Mr. Eggleston was to work to some extent with Mr. Kendall in preparing 10 11 this chronology?
- 12 Α The notes indicate that, yes.
- The next entry is "each day White House 13 clips go through clips and come up with answers"? 14
- It says "inaccurate statements in the clips 15 address" and then it says "new things," then it says 16 "go back with regard to stuff been written." 17
- 18 Okay, then below that? 0
- 19 Α It says "produced" and "how to use?"
- 20 Do you know what that refers to? O
- 21 Again, I am talking about -- what it refers A
- to would be the chronology and the responses. Okay. 22

- It says "produced" and "how to use?" Underneath that 1 2
- it says "designated White House spokesmen
- Stephanopoulos, Lindsey, Nussbaum." 3 4 (Discussion off the record.)
- 5
- BY MR. GIUFFRA:
- 6 Q The next entry looks like "3, special 7 assignments," then I can't read the next --
- "Special assignments with regard to certain 8 9 issues "
- 10 O What is the word to the right where it
- 11 says --
- "Certain." 12 Α
- "Certain issues." What do you recall about 13 14 discussions of special assignments with regard to 15 special issues?
- 16 Well, if issues came up that required a
- 17 more in-depth treatment or development of more 18 background or something that people might get
- 19 assigned to deal with those, as on most, to more of a 20 sort of general response.
- 21 The next entry of this is on page 12598.
- 22 It says "Kendall."

A "Kendall potential public presentation, possible assistance from White House counsel, partial release of documents, WBC." I think that's Williams & Connolly.

Q What does that entry indicate to you?

A As part of a potential public presentation, there might be a partial release of documents.

Q What about possible assistance from White House counsel?

A That the White House counsel would, as part of its response, maybe participate in such a public presentation. I don't know beyond that.

Q Was there any discussion, at this meeting, of the White House counsel's office providing assistance to Mr. Kendall with regard to his representation of the President and Mrs. Clinton.

A No, we would be more in line of -- it would be more in line of us doing our jobs. All of this is about, as I testified earlier, the White House getting its act together with regard to responding to Whitewater matters as they came up. And in the context of us doing our jobs, we might participate in

this public presentation.

Q But do you recall any discussion, at this meeting, of the White House providing assistance to Mr. Kendall in connection with his representation of the Clintons?

A No, I mean -- I don't quite understand what the question means. I mean, we were going to cooperate. Does that mean assistance?

Q Was there any discussion of the White House counsel's office assisting Mr. Kendall, for example, with regard to fact gathering?

A No. I don't recall that. No, sir.

Q Was there any discussion of the White House counsel's office providing assistance to Mr. Kendall with regard to legal resource?

A No, I don't recall that. No, sir.

Q Was there any discussion of the White House counsel's office attempting to obtain information from government agencies that could be provided to Mr. Kendall?

A Absolutely not.

(Mr. Ben-Veniste and Mr. Cole entered the

27 1 deposition.) 2 MR. BEN-VENISTE: Off the record. 3 (Discussion off the record.) 4 BY MR. GIUFFRA: 5 O Mr. Kennedy, what I would like to do is start with the date of March 4, 1994, and then just 6 7 have you look backward. 8 Between -- strike that. 9 Between October 1, 1993 and March 4, 1994, did you attend any meetings with David Kendall of 10 11 Williams & Connolly? 12 The dates are October 1st? 13 0 Yes And March 4? 14 A 15 0 Yes. 1994. 16 Did I attend any meetings with David Α 17 Kendall? 18 0 Correct. 19 Well, I had lunch with him somewhere in Α 20 that time frame. And then I attended a meeting on 21 November the 5th at his offices. 22 Q Did you attend any other meetings with 28 1 Mr. Kendall? 2 A No. I am sure I bumped into him once or 3 twice in the White House, but I never attended any 4 other meetings. 5 MR. KRAVITZ: Weren't there notes from 6 November 4 also? 7 THE WITNESS: That's right. These here, 8 the November 5th meeting and these here. 9 MR. KRAVITZ: November 4. 10 BY MR. GIUFFRA: 11 Q The November 4 meeting, November 5 meeting and then your lunch would be the meetings you can 12 13 recall with Mr. Kendall --14 Yes, sorry. -- in that period I gave you of October 1, 15 1993 through March 4, 1994? 16 17 Right. A 18 0 Did you have any meetings with Mr. Kendall

I have seen David Kendall at the Rose Law

Firm in 1995, but would not constitute that contact

as a meeting. No, the answer is no.

19

20

21

22

after March 4, 1994?

	29
1	Q Between October 1, 1993 and March 4,
2	1995 strike that March 4, 1994, did you have
3	any telephone conversations with Mr. Kendall?
4	A Yes.
5	Q Do you recall approximately how many
6	telephone sales you will have had with Mr. Kendall?
7	A Just one.
8	Q And when was that telephone conversation?
9	A Probably sometime in the middle of
10	November, middle to late November.
11	MR. KRAVITZ: Of which year.
12	THE WITNESS: 1993.
13	BY MR. GIUFFRA:
14	Q And what was the substance of your
15	telephone call with Mr. Kendall in mid-to-late 1993?
16	A Well, he called me and he asked me he
17	told me he had some records that he needed to return
18	to the Rose Law Firm and wanted to know how I thought
19	that should be done.
20	Q What did Mr. Kendall say about these
21	records?
22	A Basically that he had some that he needed
	30
1	returned to the Rose Law Firm.
2	returned to the Rose Law Firm. Q Did he describe the records to you in any
2 3	returned to the Rose Law Firm. Q Did he describe the records to you in any way?
2 3 4	returned to the Rose Law Firm. Q Did he describe the records to you in any way? A He did not. I did ask him if there was any
2 3 4 5	returned to the Rose Law Firm. Q Did he describe the records to you in any way? A He did not. I did ask him if there was any sensitivity connected with them and he said yes,
2 3 4 5 6	returned to the Rose Law Firm. Q Did he describe the records to you in any way? A He did not. I did ask him if there was any sensitivity connected with them and he said yes, there was.
2 3 4 5 6 7	returned to the Rose Law Firm. Q Did he describe the records to you in any way? A He did not. I did ask him if there was any sensitivity connected with them and he said yes, there was. Q And what did you advise Mr. Kendall to do
2 3 4 5 6 7 8	returned to the Rose Law Firm. Q Did he describe the records to you in any way? A He did not. I did ask him if there was any sensitivity connected with them and he said yes, there was. Q And what did you advise Mr. Kendall to do with regard to returning these
2 3 4 5 6 7 8 9	returned to the Rose Law Firm. Q Did he describe the records to you in any way? A He did not. I did ask him if there was any sensitivity connected with them and he said yes, there was. Q And what did you advise Mr. Kendall to do with regard to returning these A I told him he should either mail them or
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2 3 4 5 6 7 8 9 10 11 12 13 14 15	returned to the Rose Law Firm. Q Did he describe the records to you in any way? A He did not. I did ask him if there was any sensitivity connected with them and he said yes, there was. Q And what did you advise Mr. Kendall to do with regard to returning these A I told him he should either mail them or deliver them either to Ron Clark, the managing partner, or to Jerry Jones who is one of the litigation partners. Q Did Mr. Kendall indicate to you that these records came from the files of Vincent Foster? A We did not discuss the source of them at
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2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19	returned to the Rose Law Firm. Q Did he describe the records to you in any way? A He did not. I did ask him if there was any sensitivity connected with them and he said yes, there was. Q And what did you advise Mr. Kendall to do with regard to returning these A I told him he should either mail them or deliver them either to Ron Clark, the managing partner, or to Jerry Jones who is one of the litigation partners. Q Did Mr. Kendall indicate to you that these records came from the files of Vincent Foster? A We did not discuss the source of them at all. Q Have you ever discussed these documents with anyone since that conversation you had with Mr. Kendall in mid-to-late 1993, other than your
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20	returned to the Rose Law Firm. Q Did he describe the records to you in any way? A He did not. I did ask him if there was any sensitivity connected with them and he said yes, there was. Q And what did you advise Mr. Kendall to do with regard to returning these A I told him he should either mail them or deliver them either to Ron Clark, the managing partner, or to Jerry Jones who is one of the litigation partners. Q Did Mr. Kendall indicate to you that these records came from the files of Vincent Foster? A We did not discuss the source of them at all. Q Have you ever discussed these documents with anyone since that conversation you had with Mr. Kendall in mid-to-late 1993, other than your counsel?
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1 Madison files. I did not know that 2 contemporaneously. I have never discussed with anyone, you know, what they were, which files, 3 whatever. But I do know that they are -- that they 4 5 were Madison related files. You never discussed the chain of custody of 6 7 these documents with anyone that you can recall? 8 No. sir. Α You never discussed it with Webster 9 0 10 Hubbell, for example? 11 Α No. sir. 12 Mr. Kennedy, so far as you know, between 0 October 1, 1993 and March 4, 1994, did Mr. Kendall 13 14 attend any meetings with anyone else at the White 15 House? 16 Α He must have, but I, of my own independent 17 knowledge, I cannot tell you whether he did or not. 18 O You don't know whether Mr. Kendall, for 19 example, met with Bruce Lindsey during this period? I do not. 20 21 You don't know whether Mr. Kendall met with 22 Mr. Nussbaum during this period? 32 Common sense tells me, Bob, that he did. 1 -2 Probably many times during the time frame that you 3 outline, but I didn't attend any such meetings. No one discussed with you the fact that 4 they had attended a meeting with Mr. Kendall. 5 6 I would like to show you a document. The 7 White House provided the committee with an 8 opportunity to review a New York Times editorial that 9 the President had written a notation on. And then 10 what I've done is I just transcribed what the 11 President wrote on the editorial. This editorial is dated December 20, 1993. My question to you is 12 13 whether you have ever seen this editorial with the 14 President's handwriting on it? 15 No. I have never seen it. I thought my 16 handwriting was bad. "This is important to be on top of, Bassett did a good job in," something, "cump." 17 "Camp"? 18 Q 19 Α "Camp."

"On this"?

"On this." I have never seen this before.

MR. KRAVITZ: Just for the record, that's

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1	· · · · · · · · · · · · · · · · · · ·	
-	Bob's handwriting.	
2	THE WITNESS: I am reading Bob's	
3	handwriting.	
4	MR. GIUFFRA: But you will agree this was	
5	what was on the document that we saw that was given	
6	to us from the White House.	
7	MR. KRAVITZ: I will agree that that may be	
8	it. I remember there was some dispute as to whether	
9	we could read one or two words in it, but that's	
10	certainly close, if not exactly what it was.	
11	BY MR. GIUFFRA:	
12	Q Have you ever discussed Beverly	
13	Bassett-Schaffer with the President?	
14	A No.	
15	Q Did you attend a University of Arkansas	
16	basketball game on December 28, 1993?	
17	A Where?	
18	Q In Arkansas?	
19	A December 28, 1993.	
20	MR. KRAVITZ: Who was it against? It might	
21	help him remember.	
22	BY MR. GIUFFRA:	
		34
1	Q The President maybe to help you	
2		
	remember, the President attended this game.	
3	A No, I don't I did not attend that game.	
3	A No, I don't I did not attend that game. Q Do you know whether Mr. Lindsey spoke with	
3 4 5	A No, I don't I did not attend that game. Q Do you know whether Mr. Lindsey spoke with Ms. Schaffer and her husband Archie Schaffer at this	
3 4 5 6	A No, I don't I did not attend that game. Q Do you know whether Mr. Lindsey spoke with Ms. Schaffer and her husband Archie Schaffer at this basketball game about Whitewater related matters?	
3 4 5 6 7	A No, I don't I did not attend that game. Q Do you know whether Mr. Lindsey spoke with Ms. Schaffer and her husband Archie Schaffer at this basketball game about Whitewater related matters? A No.	
3 4 5 6 7 8	A No, I don't I did not attend that game. Q Do you know whether Mr. Lindsey spoke with Ms. Schaffer and her husband Archie Schaffer at this basketball game about Whitewater related matters? A No. Q You don't know if the President spoke to	
3 4 5 6 7 8 9	A No, I don't I did not attend that game. Q Do you know whether Mr. Lindsey spoke with Ms. Schaffer and her husband Archie Schaffer at this basketball game about Whitewater related matters? A No. Q You don't know if the President spoke to Ms. Schaffer or Archie Schaffer about Whitewater	
3 4 5 6 7 8 9	A No, I don't I did not attend that game. Q Do you know whether Mr. Lindsey spoke with Ms. Schaffer and her husband Archie Schaffer at this basketball game about Whitewater related matters? A No. Q You don't know if the President spoke to Ms. Schaffer or Archie Schaffer about Whitewater related matters at this game?	
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3 4 5 6 7 8 9 10 11 12 13	A No, I don't I did not attend that game. Q Do you know whether Mr. Lindsey spoke with Ms. Schaffer and her husband Archie Schaffer at this basketball game about Whitewater related matters? A No. Q You don't know if the President spoke to Ms. Schaffer or Archie Schaffer about Whitewater related matters at this game? A No. Q You know Jim Blair; am I correct? A Yes.	
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- 35 1 activities. There have subsequently been press 2 reports. Now whether you can recognize him as an agent or not, that's for someone other than me. I 3 4 have not discussed it. And I don't know what his 5 capacity was. 6 I would like to show you another document. 7 The White House gave us an opportunity to look at 8 this document, and then we transcribed what was 9 written on the document. This is a chronology. It 10 says DEK, 11/10/1993. It has a fax transmission notation across the left hand margin, November 10, 11 12 1993, Wednesday, 10/27. 13 I don't believe I have ever seen this, 14 Mr. Giuffra, Bob. 15 0 Thank you, sir. 16 Α You bet. Have you ever reviewed any chronologies 17 that were prepared by Williams & Connolly with regard 18 19 to Whitewater matter? 20 I don't believe so. Α 21 I would like to show you a document which 22 bears Bates numbers CGE 12286 through 12294. It is a 36 1 memorandum written by David Watkins, "subject: 2 Response to internal White House travel office 3 management review." And your question is? 4 A Have you ever seen this memorandum before? 5 6 No. There have been press reports about it 7 and I believe portions of it have been extracted in the press, but I have never seen the actual memo 8 9 before. Were you aware that Mr. Foster maintained 10 11 certain documents in his office relating to what is 12 now known as Travelgate? 13 MR. CASTELLITTO: Object. MR. GIUFFRA: I will rephrase the question. 14 15 BY MR. GIUFFRA: All right. 16 Q 17 I apologize. Were you aware that 18 Mr. Foster maintained certain documents in his office
- surprised? Absolutely not. 22 Mr. Foster was involved in monitoring the Q

Where specifically, no. Would I have been

relating to the White House travel office?

19 20

1 White House travel office in the early part of 1993? 2 Did he have involvement in situations 3 around the travel office? The answer is ves. 4 Monitoring it, I don't know if I would quite use 5 that. 6 Q What was his role with regard to the travel 7 office during 1993? You know, we are talking about -- when you 8 9 say "monitoring," what does that mean? I mean, did he have oversight over it? Absolutely not. And, 10 Bob, I am not trying to split hairs with you. But 11 12 the -- I mean, the short answer to the question is he was acting in his role as White House counsel with 13 regard to the travel office, deputy White House 14 15 counsel. 16 Were you involved with regard to the travel 17 office during the first half of 1993? 18 MR. KRAVITZ: Objection. How does that 19 come within our resolution? It is one thing if you 20 want to talk about Mr. Foster and the possibility 21 that documents were in there, and that was relevant 22 to whatever happened following his death, but I don't 38 1 think it has anything to do with Mr. Kennedy's 2 involvement in the travel office. 3 MR. GIUFFRA: The relevance is, I am going to ask a few questions -- and Mr. Kennedy was also 4 5 involved in the travel office. He would have 6 knowledge as to what was in Mr. Foster's office, 7 perhaps. 8 MR. KRAVITZ: Why don't you ask him that 9 question and work backwards rather than asking things that are outside our resolution through a back door. 10 11 THE WITNESS: What is the question? 12 BY MR. GIUFFRA: 13 Did you have any involvement with regard to the travel office prior to Mr. Foster's death? 14 15 MR. CASTELLITTO: The answer to that would 16 take hours. I have to agree with Neal. I think it 17 is outside the resolution. If it is tied in with 18 Vince, I have no problem. 19 THE WITNESS: What's the procedure here?

21 MR. CASTELLITTO: I guess you can answer. 22 BY MR. GIUFFRA:

We've got an objection, do I answer?

		39
1	Q Yes, you had involvement?	
2	A The answer is, yes, I had involvement with	
3	the travel office.	
4	Q Did you work with Mr. Foster regarding the	
5	travel office matter?	
6	A Yes.	
7	Q Did you have any and do you have any	
8	understanding as to whether Mr. Foster ever spoke to	
9	David Watkins about the travel office?	
10	A Independently, it has been reported in the	
11	press over and over that he did. David Watkins was	
12	in a meeting with Vince Foster and I, so the answer	
13	is yes.	
14	Q And do you recall whether Mr. Foster took	
15	notes at that meeting?	
16	A I don't recall.	
17	Q Was Mr. Foster someone who, as a regular	
18	matter, took notes at meetings?	
19	A Not necessarily. No.	
20	Q But did he sometimes take notes at meeting?	
21	A Sometimes he did.	
22	Q So he may well have taken notes at this	
		4.0
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1	meeting; is that right?	40
2	meeting; is that right? A What I am saying is I don't recall that he	40
2 3	meeting; is that right? A What I am saying is I don't recall that he did or didn't.	40
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1 accurate. My recollection is that Mr. Castellitto 2 stated that, to the extent those questions were 3 directly related to the creation of any documents 4 that were in Mr. Foster's office at the time of Mr. 5 Foster's death, that he would not object to those 6 questions; is that correct? 7 MR. CASTELLITTO: Yes, that's correct. 8 that's what we discussed. I don't think Bob is 9 trying to misrepresent what I said. The understanding is if it is within the scope of the 10 11 Senate resolution, which is the handling of documents 12 in Vince Foster's office after his death, you are 13 entitled to go into it. But if you are going to ask 14 him questions about conversations he had with Vince 15 Foster or David Watkins about the travel office. 16 that's outside the scope. And he testified at length 17 to that in other arenas and I don't want to have him 18 spending his time here doing that. It is outside the scope of this committee's resolution. 19 20 MR. KRAVITZ: Let me just put my position on the record. First of all, and I guess I don't 21 22 want to speak for Mr. Kennedy and Mr. Castellitto, 42 1 but I don't know that anyone gave anyone any notice 2 about -- that there would be any questions about the 3 travel office matter at today's deposition. And it 4 appeared to me Mr. Kennedy was not prepared to 5 testify about that subject. 6 My understanding was that the subject of 7 today's deposition was supposedly the November 5, 8 1993 meeting. We haven't had any questions about that yet. But I think just as a matter of comity 9 10 that it is really not appropriate to go into the 11 travel office matter at this deposition. I think 12 more important --13 MR. GIUFFRA: It is my understanding at the 14 Neil Eggleston deposition there were questions about 15 the travel office. 16 MR. KRAVITZ: Mr. Eggleston, there were 17 limited questions about that.

position is that, to the extent questions to
 Mr. Kennedy about the travel office matter go

MR. GIUFFRA: That's what we are probing

MR. KRAVITZ: My -- more important, my

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here.

directly to the issue of documents that were, or at 2 least to that Mr. Kennedy has reason to believe were in Mr. Foster's office at the time of Mr. Foster's 3 death, I will not object to those questions.

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To the extent you are asking him questions about conversations he had with Mr. Watkins, that has nothing to do with any subject in our resolution, and I will object to those questions. To the extent you ask him questions about conversations he had with Mr. Foster, at this time, unless you can tie those questions to documents in Mr. Foster's office, I am going to object to those questions.

Mr. Kennedy already testified that he has no recollection of whether Mr. Foster took notes, at least at this one meeting that he has testified about, involving himself, Mr. Foster and Mr. Watkins, and I think that that should answer that question.

MR GIUFFRA: Well in fact --MR. KRAVITZ: Let me just finish. If you intend or if you would like to ask substantive questions about the travel office matter, which clearly are beyond the scope of the resolution, I am

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going to object at this time and ask Mr. Kennedy not to answer those questions pending an opportunity to discuss the matter with Mr. Ben-Veniste and Senator Sarbanes, hopefully over lunch. Actually, what I would do is ask you to defer asking any of those questions until after lunch. We don't have to get into asking people not to answer questions. MR. GIUFFRA: I don't have a problem with

that. Just so the record is clear, Mr. Foster's office contained, insofar as we know at this point in time, a diary with regard to the travel office matter. The scraps of paper that were found in his briefcase following his death also make reference to the travel office matter. And if Mr. Foster had documents reflecting communications with Mr. Watkins, that would be relevant to, for example, providing a motive for people to go into his office and perhaps remove documents from his office regarding the travel

18 19 office. 20 MR. KRAVITZ: Bob, we also know Mr. Foster

had documents in his office regarding the Supreme Court nomination of Ruth Bader Ginsburg. It is not

45 your position because of that we have jurisdiction to 1 2 investigate that nomination; is it? 3 MR. GIUFFRA: Obviously there is a real 4 difference when you have a document that was produced 5 by the White House, about a week ago, that had not 6 been produced. 7 MR. KRAVITZ: I don't think it ever has 8 been provided to this committee because I don't think 9 it is relevant to this committee's resolution. That document was produced to the House. My understanding 10 11 is that this committee has never complained about the 12 fact that that document was not produced to it. As I 13 assume that you and the rest of this committee 14 recognize that it is not responsive to any document request this committee has ever made. Just so the 15 16 record is clear, the document that you and I are 17 referring to is the Watkins memo. 18 MR. GIUFFRA: And I had identified it 19 earlier. Why don't we go on and stop wasting 20 transcript pages on this. 21 MR. KRAVITZ: That's a great idea. MR. GIUFFRA: And we will consider it after 22 46 1 lunch. 2 BY MR. GIUFFRA: Mr. Kennedy, let me show you a document 3 4 that we obtained from the White House, from 5 Mr. Kendall, excuse me, a little bit over a week ago, 6 that bears Bates numbers DKSN 28928 through DKSN 7 29043. Have you ever seen this document before? 8 Yes. 9 0 When did you first see this document 10 before? 11 Α Let's see, what's today? Today is Monday. 12 Last week. 13 Do you recall approximately when last week you had seen this document? 14 15 Well, since it's discovery, the firm got a 16 copy of it, and those members of the firm and me were 17 advised we could come down and look at it to see what these documents reflect, so I took advantage of 18 19 that. 20 So it is your testimony you had not seen

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Α

Yes.

these documents prior to last week?

47 1 You did not see these documents, for 2 example, during the 1992 Presidential campaign? 3 No. sir. A 4 Do you have any knowledge with regard to the chain of custody with regard to these documents? 5 6 Α I do not. 7 0 Have you ever discussed Rose billing 8 materials with Caroline Huber --9 Well, countless times. 10 0 -- with regard to the Madison matter? 11 Excuse me. No. I don't think so. 12 Α 13 Do you have any understanding as to whether O Rose billing materials, with regard to the firm's 14 15 representation of Madison, were obtained by anyone 16 during the 1992 Presidential campaign? 17 I know that Vince Foster, during the 1992 campaign, took a look at the firm's representation of 18 Madison so that the firm could respond during the 19 20 campaign to various Madison related issues that on 21 had come up in the campaign. Do you have any understanding as to whether 22 48 1 Mr. Foster attempted to obtain billing records with 2 regard to the firm's representation of Madison? 3 Α When? 4 O During the 1992 Presidential campaign? 5 I don't know that with particularity, but I 6 think he probably did in context of trying to respond 7 on behalf of firm to the Madison issues. 8 But you don't have any knowledge with 9 regard to whether Mr. Foster actually attempted to 10 obtain Rose billing records relating to Madison during the 1992 Presidential campaign? 11 12 All I can do is assume that he did. 13 MR. ATKINS: Speculate is a better word. 14 THE WITNESS: Speculation is a better 15 It is purely speculation, I think he probably word. 16 did. 17 BY MR. GIUFFRA: 18 What is the basis for your belief? 19 Well. I know that he -- I know that he 20 requested the basic files on Madison during the 21 campaign.

How do you know that Mr. Foster requested

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1	the basic files on Madison during the 1992 campaign?	
2	A Because he requested I help him get those	
3	from our remote storage during the 1992 campaign.	
4	Q Do you recall approximately when that was?	
5	A I think it was really relatively early in	
6	1992, but the precise date, I do not remember.	
7	Q And did you make efforts to obtain the Rose	
8	firm's files, with regard to Madison, from the remote	
9	storage?	
0	A All I did was be sure that his request for	
1	those files was handled promptly.	
12	Q Did you contact anyone?	
13	A I talked with Mary Russell, who was head of	
14	our couriers, and said let's get these things as	
15	quick as we can.	
16	Q And do you know whether there were any	
17	files, at the Rose Law Firm's remote storage,	
18	relating to Madison during the 1992 campaign?	
19	A I assume they were, yes. I mean, trying to	
20	answer your question completely, I didn't go out	
21	there myself. I didn't handle them. I just assumed	
22	they were retrieved and given to Vince, that's	
		50
		50
1	speculation on my part.	50
1 2	Q Did anyone indicate that there were no	50
1 2 3	Q Did anyone indicate that there were no files at the remote storage relating to the Madison	50
1 2 3 4	Q Did anyone indicate that there were no files at the remote storage relating to the Madison representation?	50
1 2 3 4 5	Q Did anyone indicate that there were no files at the remote storage relating to the Madison representation? A Absolutely not.	50
1 2 3 4 5 6	Q Did anyone indicate that there were no files at the remote storage relating to the Madison representation? A Absolutely not. Q So, as far as you know, there were files	50
1 2 3 4 5 6 7	Q Did anyone indicate that there were no files at the remote storage relating to the Madison representation? A Absolutely not. Q So, as far as you know, there were files relating to Madison at the firm's remote storage	50
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1 2 3 4 5 6 7 8 9 10 11 11 12 13 14 15 16 17	Q Did anyone indicate that there were no files at the remote storage relating to the Madison representation? A Absolutely not. Q So, as far as you know, there were files relating to Madison at the firm's remote storage facility? MR. KRAVITZ: Objection. He said it is speculation. He said he assumes, based on speculation, that there were. THE WITNESS: I assume that there were. As I say, I did not retrieve them myself, so I believe there were. BY MR. GIUFFRA: Q You believe that had there not been any files, Ms. Russell would have advised you of that	50
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1 2 3 4 5 6 7 8 9 10 11 11 12 13 14 15 16 17 18 19	Q Did anyone indicate that there were no files at the remote storage relating to the Madison representation? A Absolutely not. Q So, as far as you know, there were files relating to Madison at the firm's remote storage facility? MR. KRAVITZ: Objection. He said it is speculation. He said he assumes, based on speculation, that there were. THE WITNESS: I assume that there were. As I say, I did not retrieve them myself, so I believe there were. BY MR. GIUFFRA: Q You believe that had there not been any files, Ms. Russell would have advised you of that fact? A Probably so.	50
1 2 3 4 5 6 7 8 9 10 11 11 12 13 14 15 16 17 18	Q Did anyone indicate that there were no files at the remote storage relating to the Madison representation? A Absolutely not. Q So, as far as you know, there were files relating to Madison at the firm's remote storage facility? MR. KRAVITZ: Objection. He said it is speculation. He said he assumes, based on speculation, that there were. THE WITNESS: I assume that there were. As I say, I did not retrieve them myself, so I believe there were. BY MR. GIUFFRA: Q You believe that had there not been any files, Ms. Russell would have advised you of that fact?	50

51 Mr. Kennedy, in the past when you have asked for files from the Rose Law Firm's remote storage facility and the files no longer were in existence, someone would have advised you the files were no longer in existence? That's a fair answer, ves, but since we are talking -- I have to say we are talking about a negative, nobody advised me of that. MR. GIUFFRA: I'm sorry about this. Can we take a break for a second. (Recess.) BY MR. GIUFFRA: Do you recall anything more about your request to Ms. Russell to obtain Rose's Madison file from your storage facility? Α No. Do you know whether Mr. Foster ultimately received some documents from the storage facility relating to the representation of Madison? Speculation, I assume that he did. I don't know for sure.

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A I assume that he did simply because I do know that the firm made a response with regard to Madison matters.

Why do you assume that he did?

Q What do you know about the firm's response with regard to Madison matters during the 1992 campaign?

A All I know is that the press inquiries were dealt with. And I can't remember what they were, specifically what the response was.

Q And you had no role with regard to helping to formulate those press responses?

A Did not.

Q Do you have any knowledge with regard to how Madison retained the Rose Law Firm in 1985?

A Other than what has been reported in the press, no.

Q So you never have discussed the retention of Madison -- strike that -- the retention of Rose by Madison in 1995?

A You say 1995?

21 Q 1985.

22 A No.

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53 You never discussed with Mrs. Clinton 1 2 whether she brought Madison and its clients to the Rose Law Firm? 3 4 Α I have not. 5 Have you ever discussed that with 0 6 Mr. Massey? 7 Α No. I have not. 8 Did you ever discuss who brought the 9 Madison account into Rose with Mr. Foster? 10 No. I did not. So your testimony is you don't recall 11 O discussing that subject with anyone other than your 12 13 counsel? 14 Α That's correct. 15 MR. KRAVITZ: I don't think his testimony 16 is that he did discuss it with his counsel. 17 THE WITNESS: That's correct. 18 BY MR. GIUFFRA: 19 Were you aware in 1985 of the fact that 20 Madison owed some money to the Rose Law Firm for 21 prior representation? 22 No. 54 1 O Do you have any knowledge with regard to any steps that were taken by the Rose Law Firm to see that Madison paid its bill that was due as of 1985? 3 4 I hate to say this, Bob, but you are confusing me. If you are talking 1985, and you are 5 talking Madison, I don't think Madison owed us any 6 7 money in 1985. 8 Are you talking about pre-representation, 9 post-representation? 10 O Pre-representation from earlier 11 representation. 12 In 1985, I am unaware of any earlier representation of Madison by the Rose Law Firm. 13 14 O When did you first learn that the Rose Law Firm had been retained by Madison? 15 I suppose I heard about it in some form or 16 17 fashion during that time frame. You know, hallway 18 chatter. 19 Do you have any knowledge with regard to 0 20 the Rose Law Firm's services to Madison in connection

with the issuance of -- by Madison of preferred

21

22

stock?

		55
1	A Well, as I previously testified, I was	
2	consulted by Massey with regard to that matter	
3	because I had some expertise regarding private	
4	placements of securities. Although I could not have	
5	testified about this until I saw the time records,	
6	evidently I attended a meeting on the stock offering	
7	matter, but that's basically it.	
8	Q Did you ever discuss anything having to do	
9	with the firm's representation of Madison with	
0	Mrs. Clinton?	
1	A No.	
2	Q So the only person you would have spoken to	
3	was Mr. Massey?	
4	A Yes.	
5	Q Was it your understanding that Mrs. Clinton	
6	was the billing partner on this matter?	
7	MR. KRAVITZ: Was it or is it his	
8	understanding?	
9	THE WITNESS: What's your time frame?	
20	BY MR. GIUFFRA:	
21	Q In 1985, 1986 were you aware that	
22	Mrs. Clinton was the billing partner for the Rose Law	56
1	Firm in connection with this representation of	30
2	Madison?	
3	A I may have been. But I don't recall when I	
4	knew that. And, Bob, that's the best I can do. At	
5	some point I probably did know, simply because of	
6	firm year-end matters, but no particular importance	
7	would have attached to me at that point in time.	
8	Q Do you know whether there ever came a time	
9	when Mrs. Clinton spoke to Beverly Bassett about	
0	anything having to do with Madison?	
11	A Bob, from press reports I do. I would not	
12	have known that contemporaneously with those	
13	conversations.	
14	Q Now in 1985, 1986, what was the role of a	
15	billing partner at the Rose Law Firm with regard to a	
16	matter?	
17	A Well, that person was responsible for,	
18	obviously, sending out the bills. Depending on the	
19	matter, the parties involved, the facts, the	
20	circumstances and whatnot, there could have been a	
2.1	supervisory role attached to that, or maybe not a	

supervisory role. But, the billing partner was

57 1 responsible for getting the bills out to the client. 2 With regard to the work of associates, what is the Rose Law Firm's practice with regard to the 3 4 role of partners and the supervision of associates? 5 Depending on the associate's degree of 6 experience, expertise, intelligence, perception 7 within the firm, you get varying degrees of supervision. But partners were responsible for, you 8 9 know, being sure that the associates did the work timely, efficiently, correctly. 10 Did there come a time in 1985 when you 11 12 became aware of the fact that the Rose Law Firm was providing services to Madison in connection with a 13 14 transaction involving IDC? 15 Α No. Are you aware of a real estate -- strike 16 0 17 that. 18 In 1985, 1986 were you aware of a real estate project in Little Rock called Castle Grande? 19 20 Α No Q When did you first learn of a real estate 21 22 project called Castle Grande? 58 1 I am sure it was from press reports. Do you know Seth Ward? 0 3 I have met Seth Ward, yes. A 4 Did there come a time when you learned that 5 Mr. Ward was involved in this real estate project called Castle Grande? 6 7 A Only from press reports. So it is your testimony, for example, that 8 9 you never spoke to Mr. Hubbell about Castle Grande? 10 Never 11 Do you know why Mr. Foster asked you to take steps to obtain the firm's Madison files from 12 the storage facility during the 1992 campaign? 13 Chief operating officer of the firm, he 14 15 knew that I could get people to respond to me. MR. KRAVITZ: Just so the record is clear, 16 you were the chief operating officer of the firm. 17 18 THE WITNESS: In 1992 I was the chief 19 operating officer of the firm, other term, managing

20

21

22

partner.

BY MR. GIUFFRA:

What was the term you were the chief

operating officer of the Rose Law Firm?

A I believe from late in 1986 up through January 31, 1993. With one qualification, I am not sure precisely when in '86 this happened. I believe it was late in the year, but I am not sure of the exact date --

MR. KRAVITZ: '86.

THE WITNESS: -- that I became chief operating officer.

MR. KRAVITZ: I'm sorry. THE WITNESS: I'm sorry.

BY MR. GIUFFRA:

Q When you made the request to Ms. Russell, was it an oral request or written request for the documents?

A I am sure I picked up the telephone to call

17 her.

1 2

18 Q During the period 1986 to 1993, what was 19 the Rose Law Firm's policy with regard to the 20 retention of client files?

A What's our time period?

make that program work, okay.

Q Late '86 through January 31, 1993.

A Bob, I will have to give you somewhat of a long answer to that question.

We were not doing a very good job, on an organized document destruction basis, when I came on the scene as chief operating officer. And so as part of, you know, many things that I did in connection with the operation of the law firm, I instituted a program to try to put that on an orderly basis. And so '86, '87 I started a program of trying to get lawyers to identify files that we had in remote that could be destroyed outright, could be destroyed, but prior to destruction be microfilmed or retained, and made efforts while I was chief operating officer to

And so we were trying to clean up remote, and individual partners were given a list of their files at remote and asked to identify which files, as I said, could be destroyed, which files could be -- should be microfilmed, then destroyed and to identify matters which could not be destroyed. And that would include, for example, wills, abstracts, deeds, stuff

22 like that.

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Approximately how large is the Rose Law
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2
    Firm's outside storage facility?
3
             That's a moving target. I mean, it --
4
    started off in one space, it got bigger, it got
5
    bigger. It is one of the reasons for pressing on
    this program is that it was not -- we were not using
6
    space efficiently, we were not storing documents
7
8
    efficiently and we had way too much junk.
9
             Okay, if I could just take you through some
    questions about these billing records.
10
11
            If I could call your attention to the first
12
    page, 28928, in the upper left-hand corner it says
13
    "report ID bill pay 2/12/92, 8: 41"; what does that
    refer to?
14
15
            THE WITNESS: Alden, you want to see
    these?
16
17
            MR. ATKINS: All right.
18
            THE WITNESS: My guess would be that's when
19
    this report was run.
20
            BY MR. GIUFFRA:
21
             You have no knowledge with regard to the
22
    running of this report?
                                                             62
1
        Α
             No.
 2
             No one asked you to run the report?
        0
 3
             No.
        Α
 4
        O
             You weren't aware of anyone running the
 5
    report?
6
        Α
             Correct.
 7
             MR. ATKINS: By "the report," are you
    referring to the document that's the first five pages
 8
9
    of this collection of paper?
10
            BY MR. GIUFFRA:
11
             The first five pages of documents which is
    28928 to 28932. You have no knowledge with regard to
12
    the running of this --
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14
        Α
             No
15
             -- and that would have been done in the
     accounting department of the firm?
16
17
        Α
             Yes.
18
        0
             Then there are other documents attached to
19
     this document, bills, for example, and you have no
20
     knowledge with regard to the collection of these
21
     documents?
22
             Be specific. When you said the collection
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1	of these documents, what do you mean?	05
2	Q Strike that you have no knowledge as to	
3	the chain of custody of these documents, as to how	
4	they appeared at the White House residence last week?	
5	A That's correct.	
6	MR. ATKINS: I believe it was a week and a	
7	half ago.	
8	MR. GIUFFRA: Excuse me, it's been a long	
9	week.	
10	BY MR. GIUFFRA:	
11	Q If I could call your attention to page	
12	28931.	
13	A 28931, okay.	
14	Q The reference, it has "client total fee,	
15	\$21,225" is that the A money that was billed by the	
16	Rose Law Firm to Madison?	
17	A Seems to be, yes.	
18	Q Then, to the right there is a column over	
19	under "realization," what does that refer to?	
20	A It appears to be an amount collected in	
21	excess of the stated hourly rate.	
22	Q Now, during this period, during the period	
	Q 11011, uniting this period, uniting the period	64
1	1985-1986, was the firm billing clients on an hourly	
2	basis or sometimes billing on a basis other than an	
3	hourly basis?	
4	A Both.	
5	Q Do you have any knowledge as to whether the	
6	Madison Guaranty was an hourly basis billed client or	
7	was being billed on some other basis?	
8	A Independent knowledge, I don't know. I	
9	mean, the records speak for themselves, but I don't	
10	know what was going on at that point in time.	
11	Q What do these records indicate to you with	
12	regard to whether Madison was being billed as an	
13	hourly basis client or a by some sort of a premium	
14	basis?	
15	MR. ATKINS: Let me interrupt. Have you	
16		
17		
	studied these records to answer these questions?	
18		
	studied these records to answer these questions? THE WITNESS: I have not. I have not done	
18	studied these records to answer these questions? THE WITNESS: I have not. I have not done so. BY MR. GIUFFRA:	
18 19	studied these records to answer these questions? THE WITNESS: I have not. I have not done so.	

Okay, I have skimmed over them.

Q Do the records give you any indication as to the nature of the billing relationship between Madison and the Rose Law Firm?

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A It looks like an hourly rate arrangement. But there must have been some arrangements, or the records indicate that there was at least an over realization on an hourly rate basis, at least that's what the records indicate.

Q If Madison had not been an hourly billed basis client, how would this client billing and payment history have been different?

12 I don't understand your question. Again, let me be as helpful as I can. This report would 13 14 have looked almost identical to this, okay. And 15 the -- what I want to make clear here is the fact that there is a dollar amount in the over/under 16 17 realization column does not necessarily mean that the 18 client was not billed on a hourly basis, does not 19 necessarily mean that. It indicates it, but it is 20 not determinative

Q What other factors might explain how the client was billed?

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A Well, if a lawyer had not recorded all of his time, for example, and -- but knew the time had been incurred and decided to bill it, it could come up on that basis.

Q Is that a common practice of the Rose Law Firm in this period, 1985-1986?

A A common practice? I would say no, absolutely, it was not a common practice. But did it occur? Sure, it occurred.

Q So that, for example, if a lawyer had attended a meeting or series of meetings and not reflected them in their time entries, the lawyer might add an additional amount to the bill which will key over the hours --

A Let me give you a sort of likely scenario
when this could have occurred, Bob. You get close to
the firm's year end, let's say, in a given year, and
you need to get the bills out because you want to
collect prior to the firm's year end. And you know,
for example, that you've got -- that you attended a
meeting, using your example, but you also know you

22 have to get a bill out the next day. And you know,

given the way the firm's time keeping -- the 1 mechanical entry process, that that time is not going 2 3 to -- you are not going to be able to get it into the 4 system in time to reflect it on the bill. You go 5 ahead and incorporate it in the bill. 6 The end of the year, the firm's fiscal year 7 at least in 1986, 1985, that period, that's what, 8 January 30 or 31? 9 Yes. Α 30 or 31? 10 0 11 January 31. So, that could have happened. Α 12 Do you have any knowledge of that ever happening, with regard to the firm's representation 13 14 of Madison? 15 I do not. I mean, I just don't know the 16 specifics of these bills. 17 Q Let me call your attention to page DKSN 18 29011. 19 290? Α 20 O 29011. 29011. All the way at the back, Bob, 21 22 somewhere. 1 I will get it for you. Here is 29004, I 2 will get it. Okay. If I could call your attention to part of this document denoted "time summary by 3 attorney," just look at Hillary Clinton's entry. 4 This time summary indicates that she spent 5

7.3 hours during this time covered by this billing memorandum. Are billing memoranda being prepared on a quarterly basis or a monthly basis?

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A Complicated answer to that question:
Attorneys were requested to bill monthly, Bob.

Unquestionably, we were trying to maximize revenues.

Much as I regret to say it, not everybody did that. So billing memorandums could be prepared depending on what the attorney's practice was: Would be prepared monthly, quarterly, upon request. So, there was a lofty ideal and it was met in varying degrees by different attorneys.

Q Now this indicates that Mrs. Clinton billed 7.3 hours at her standard fee which was \$125 an hour at that time, comes out to \$912.50.

MR. CASTELLITTO: Excuse me. Do you mean billed or as reflected in the accounting system at

		69
1	this time?	
2	BY MR. GIUFFRA:	
3	Q Reflected in the accounting system at this	
4	time. And to the right, handwritten in it says	
5	2731.25. Do you know what that number reflects?	
6	A Well, it looks like that number was plugged	
7	in as the amount to bill on this matter.	
8	Q And would you have any explanation for why	
9	the matter value is \$912.50 and the amount to bill is	
10	\$2731.25?	
11	MR. CASTELLITTO: By "matter value," you	
12	are referring to the matter value as reflected in the	
13	accounting record?	
14	MR. GIUFFRA: Correct.	
15	THE WITNESS: I'm sorry. Could you repeat	
16	your question? I'm sorry.	
17	BY MR. GIUFFRA:	
18	Q In the matter value, it denotes \$912.50.	
19	The amount to bill is \$2731.25.	
20	What would be an explanation for the	
21	discrepancy?	
22	MR. KRAVITZ: Are you asking him if he	
		70
1	knows the explanation or are you asking him to give	
2	you what he assumes is an explanation?	
3	MR. GIUFFRA: We will ask both questions.	
4	BY MR. GIUFFRA:	
5	Q Do you have any knowledge for this	
6	discrepancy?	
7	A No.	
8	MR. CASTELLITTO: I object to the term	
9	"discrepancy." I would prefer the word	
10	"difference."	
11	BY MR. GIUFFRA:	
12	DI MR. GIUFFRA.	
13		
	Q Difference.	
	Q Difference.A If the question is do I have any knowledge	
14	Q Difference. A If the question is do I have any knowledge of my own as to what went on with this particular	
14 15	Q Difference. A If the question is do I have any knowledge of my own as to what went on with this particular billing memorandum, the answer is no, I do not.	
14 15 16	Q Difference. A If the question is do I have any knowledge of my own as to what went on with this particular billing memorandum, the answer is no, I do not. Q Did you ever discuss with Mrs. Clinton	
14 15 16 17	Q Difference. A If the question is do I have any knowledge of my own as to what went on with this particular billing memorandum, the answer is no, I do not. Q Did you ever discuss with Mrs. Clinton anything having to do with her billing of Madison	
14 15 16 17 18	Q Difference. A If the question is do I have any knowledge of my own as to what went on with this particular billing memorandum, the answer is no, I do not. Q Did you ever discuss with Mrs. Clinton anything having to do with her billing of Madison Guaranty?	
14 15 16 17 18	Q Difference. A If the question is do I have any knowledge of my own as to what went on with this particular billing memorandum, the answer is no, I do not. Q Did you ever discuss with Mrs. Clinton anything having to do with her billing of Madison Guaranty? A No.	
14 15 16 17 18 19 20	Q Difference. A If the question is do I have any knowledge of my own as to what went on with this particular billing memorandum, the answer is no, I do not. Q Did you ever discuss with Mrs. Clinton anything having to do with her billing of Madison Guaranty? A No. Q Have you ever discussed anything having to	
14 15 16 17 18	Q Difference. A If the question is do I have any knowledge of my own as to what went on with this particular billing memorandum, the answer is no, I do not. Q Did you ever discuss with Mrs. Clinton anything having to do with her billing of Madison Guaranty? A No.	

A Well, as I previously testified, when these records became available, Ron Clark called and said we've got them, do you want to come down and look at them, so that happened. Otherwise, no.

Q What would be the explanation for the difference between the matter value listed under Mrs. Clinton's name and the amount to bill under Mrs. Clinton's name?

8 Mrs. Clinton's name?9 A There could lead to the could lead to the

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A There could be any number of those, Bob, and any answer I give you I want to stress would be totally speculation.

Looking at the time frame here, we are getting awfully close to year end, so the explanation that I gave you for where you might have an over realization might have occurred.

. There might have been a specific arrangement with the client, oral or written, that on this particular matter it could be overbilled.

19 Okay. Could have been erroneous time entries, 20 mechanical erroneous. She put down four hours

mechanical erroneous. She put down four hours somebody typed one. I guess those are sort of the

22 main ones I could come up with. There might be other

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explanations for this.

Q Can you think of any other explanations just so the record is complete?

A I think those were the main possibilities. I mean, you could, as I say -- I mean, there could have been arithmetic errors made, probably not by computer, but manually, possibly, something like that.

9 Q The top of the page bearing Bates number 10 29011.

A 29011, okay.

Q There is a date 1/21/86, that would have been the date of the billing memorandum?

A Yes.

Q If you could go to the beginning.

A We are going back to the beginning, okay.

Q Page bearing Bates number DKSN 28933.

18 A 28933.

19 Q Yes.

A Okay.

Q If I could just call your attention to the handwriting at the bottom right-hand corner of the

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1
    document, it says "HRC I believe there was a
    subsequent bill." Now do you know whose handwriting
2
3
    that is?
4
        A
             No. I don't. I do not.
             Does that appear to be Mr. Foster's
 5
        O
    handwriting, as far as you know?
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7
             It is completely speculation on my part.
    It looks a little like Vince's writing, but without
8
9
    some other examples to compare it to. I will leave it
    as speculation. It may be someone else's.
10
             Would your best guess be Mr. Foster's
11
12
    handwriting?
13
             Any guess would be speculation.
             Why don't we turn to the next page, DKSN
14
    288934, it says "HRC this suggests first matter."
15
    Does that look like Mr. Foster's handwriting?
16
17
        A It looks likes Vince's handwriting to me,
18
    but I want to stress again that's speculation. This
19
    writing here on this page looks more like Vince's
20
    handwriting than the handwriting on 28933.
21
             The handwriting on page 28933 on the
22
    right-hand corner, top right-hand corner, do you know
                                                            74
 1
    whose handwriting that is?
2
            MR. ATKINS: Upper right-hand corner.
3
            MR. GIUFFRA: Right.
            THE WITNESS: This copy is so poor -- no, I
4
5
    do not.
6
            BY MR. GIUFFRA:
7
            And you have no knowledge with regard to
        0
 8
    whether Mr. Foster ever discussed anything having to
    do with these billing materials with Mrs. Clinton
9
    during the 1992 Presidential campaign?
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11
             I have no knowledge of that.
12
             Let me ask you to turn your attention to
    the document bearing Bates number 28940.
13
14
        Α
             28940.
15
             Yes. And this is difficult to read.
        0
16
        Α
             Okay.
17
             There is handwriting where it says "HRC."
18
    The fourth entry down, 4/24/85, 1.5 hours -- 150,
19
    that's the matter value?
            MR. KRAVITZ: I think it is 180.
20
21
            BY MR. GIUFFRA:
22
             That handwriting where it says "review
        0
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draft documents," do you recognize that handwriting 1 2 at all? 3 Α I do not. I'm sorry, I do not. 4 0 If I could call your attention to the 5 document 28947. 6 28947. 7 O Yes. 8 Α Okav. 9 0 The entry on the top right-hand corner handwriting, does that look like Mrs. Clinton's 10 handwriting? 11 12 The top right-hand corner? A 13 0 Yes 14 I don't know whose handwriting that is. Α Let's turn your attention to 28992. 15 0 28992 16 Α 17 0 Yes. 18 Α On the entry in the bottom WHK 9/12/85 9.8 19 hours, 225, conference with R. Massey, conference 20 with Davis Fitzhugh, and L. Ballege, does this 21 refresh your recollection of the work you performed 22 76 1 for Madison in 1985? 2 To the extent that its -- that the entry is 3 there, the answer is yes to your question. Do you have any other memory of any work 4 5 you might have performed for Madison? No, I don't remember doing this meeting, 6 Bob, but it was on -- as you know, 11 years ago, I'm 7 sorry, I just don't have any memory of this. 8 9 Okay, there appears to be what appears to be a Post-it on this page 28992. 10 11 Yes. 12 Do you know who Sandra would be? 0 13 No. I mean, all matters through 10/31/85 -- I don't know. 14 15 0 Speculation? 16 As long as we characterize it completely in the area of speculation, which I am reluctant to do, 17 18 Sandra may have been Ms. Clinton's secretary at the 19 time. It could have been somebody in the accounting 20 department. 21 What was the name of Ms. Clinton's

22

secretary at this time?

		77
1	A I'm sorry. I don't remember.	
2	O There is another Post-it further down the	
3	page, "pull B memos from matter 1 and 3, even if	
4	disbursement under \$1, bill like others, send up	
5	draft bills"; whose handwriting is that?	
6	A I don't know.	
7	Q The next page 28993.	
8	A Okay.	
9	Q Do you know whose handwriting that would	
10	be?	
11	A No.	
12	Q During the 1992 Presidential campaign, did	
13	you have any discussions with anyone about the Rose	
14	Law Firm's representation of Madison?	
15	A Other than my conversation with Foster	
16	about getting the records from remote, I don't recall	
17	any. Bob, it is entirely possible that in the you	
18	know, in the course of in the hallways somebody	
19	might have said something to me, but I don't recall	
20	any substantive discussions.	
21	Q Do you recall any discussion with	
22	Mrs. Clinton about Rose's representation of Madison?	
		78
1	A I can state with certainty I did not have	
2	any conversations with Ms. Clinton.	
3	Q Why do you believe that?	
4	A Ms. Clinton was rarely at the Rose Law Firm	
5	in 1992, rarely.	
6	MR. KRAVITZ: Is this a good time to break	
7	for lunch? How much more do you have?	
8	MR. GIUFFRA: I have to go through the	
9	notes.	
10	MR. KRAVITZ: We should definitely break	
11	for lunch sometime. Why don't we break for lunch	
12	now.	
13	(Whereupon, at 12:55 p.m., the deposition was recessed, to be reconvened at 2:00 p.m. this same	
14 15		
16	day.)	
17		
18		
19		

AFTERNOON SESSION (2:06 p.m.) 1 2 Whereupon, 3 WILLIAM H. KENNEDY, III 4 resumed the stand and, having been previously duly 5 sworn, was examined and testified further as follows: 6 MR. GIUFFRA: This morning I asked several 7 questions about the David Watkins memorandum that the 8 White House released several weeks ago, and 9 Mr. Kennedy testified that he had a meeting with Mr. Watkins and Mr. Foster about the travel office. 10 11 And Mr. Castellitto found out from the White House 12 counsel's office that any privilege that might be 13 attached to that meeting has been waived by the White House. And I would like to ask Mr. Kennedy what was 14 15 said to Mr. Kennedy and Mr. Foster by Mr. Watkins at 16 this meeting. 17 MR. KRAVITZ: Let me state for the record, 18 as I said this morning. I have no objection to 19 Mr. Kennedy's testifying about any knowledge he may 20 have about documents relating to the travel office or

any other matters that Mr. Kennedy has reason to believe were in Mr. Foster's office at the time of

80

Mr. Foster's death.

1

2 I do object to majority counsel wasting the 3 committee's time asking questions about a matter, specifically the travel office matter, that is 4 5 outside the scope of the committee's resolution at a time when we are nearing the target date for this 6 7 committee's hearings. I think it is particularly 8 inappropriate for majority counsel to insist on 9 asking a question -- asking questions about a subject that is outside the resolution, subject that has been 10 11 aired repeatedly in other forums, a subject that 12 apparently will be aired again in the House this week. And I think it is totally inappropriate and a 13 14 waste of our time and that's another example of a 15 rerun.

I am not going to instruct Mr. Kennedy to
not answer the question since I haven't had a chance
to discuss this with Senator Sarbanes and because
Mr. Kennedy is from out of town. But I do think it
is important to put those thoughts on the record. I
don't know whether Mr. Castellitto has any additional

22 thoughts.

		01
1	MR. CASTELLITTO: I concur with	
2	Mr. Kravitz's comments. I guess I want to approach	
3	the matter pragmatically. I believe Mr. Giuffra said	
4	he has a couple of questions. If we can get through	
5	it in a couple of minutes, it is probably quicker	
6	than to continue to argue about whether or not	
7	well, we are not arguing about whether or not it is	
8	outside the scope of the resolution. I think we all	
9	agree it is outside the scope.	
10	So why don't we just go ahead and do it. I	
11	want to note for the record, it is 2:05. The	
12	deposition started at 10:00 and we haven't had a	
13	single question yet on Mr. Kennedy's notes on the	
14	November 5, 1993 meeting at David Kendall's office.	
15	MR. KRAVITZ: Which, I take it, was the	
16	subject you were informed this deposition was on.	
17	MR. CASTELLITTO: I think we were all under	
18	the impression that might be the main subject of the	
19	deposition.	
20	THE WITNESS: Can you restate the	
21	question?	
22	EXAMINATION (Continued)	
		82
1	BY MR. GIUFFRA:	
2	Q Why don't I restate it. What was the	
3	substance of your conversation with Mr. Watkins and	
4	Mr. Foster with regard to the travel office matter	
5	during the I guess it was April, May 1993 period?	
6	A Bob, I didn't just have one conversation	
7	with David Watkins; there were a couple of them,	
8	so which what do you want to do?	
9	Q The conversation you had with Mr. Foster	
10	and Mr. Watkins.	
11	A Well, this was a meeting at which Foster	
12	was there, I was there, Catherine Cornelius was	
13	there, Harry Thomasson was there and Watkins came in	
14	sort of after the meeting started. And it was a	

Q Was there any discussion of the role of the First Lady with regard to the decision to terminate the travel office employees?

meeting to get Vince and I up to speed on what had

happened in the travel office that gave rise to

concerns about its operation.

21 A No. 22 MR.

15

16

17 18

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MR. KRAVITZ: Bob, can I ask you a

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1
    question, whether you can point to a provision in the
 2
    resolution that that question is relevant to?
            MR. GIUFFRA: Yes, the handling of the
 3
 4
    documents in Vince Foster's office.
            MR. KRAVITZ: Any other?
 5
 6
            MR. GIUFFRA: That's the one that comes to
 7
    my mind now.
 8
            MR. KRAVITZ: You want to take a minute to
 9
    review the resolution.
10
            MR. GIUFFRA: Let's go off the record for a
11
    second.
12
            (Discussion off the record.)
13
            MR. KRAVITZ: Let's go back on the record.
    The record should reflect that I've asked Mr. Giuffra
14
15
    to identify any provisions in the Senate Resolution
    120 that would authorize a question such as the last
16
    question, which was whether there was any discussion
17
    at this meeting relating to whether Mrs. Clinton
18
19
    directed that employees in the travel office be
20
    terminated. He cited one provision, which was the
21
    handling of documents in Mr. Foster's office. And
22
    given an opportunity to cite additional provisions,
                                                             84
 1
    did not cite any others.
 2
            MR. GIUFFRA: On that -- again, I don't
 3
    want to waste time on this. We have already spent
 4
    more time arguing about it than the amount of time to
 5
    answer questions.
 6
            MR. KRAVITZ: That's what happens when you
 7
    ask questions outside the resolution.
 8
            MR. GIUFFRA: There are other provisions in
 9
    the resolution contained in subsection B1. B2 and
10
    B3. I think it is relevant to all three of those.
11
            MR. KRAVITZ: Can you be more specific?
12
            MR. GIUFFRA: I am not going to engage you
13
    now. I want to get the deposition over with.
14
             MR. KRAVITZ: The record should reflect it
15
    is a completely nonspecific answer because there is
16
    no specific answer.
17
             BY MR. GIUFFRA:
             Mr. Kennedy, do you have any knowledge with
18
19
     regard to any efforts to review documents of Vincent
20
     Foster at the Rose Law Firm, following his death?
21
             Let me trying another question. Do you
```

have any knowledge with regard to any effort to

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85
 1
    review files of Vincent Foster maintained at the Rose
 2
    Law Firm, following his death?
 3
        Α
             No.
 4
             Do you have any knowledge of any effort to
 5
    destroy any files of Vincent Foster maintained at the
 6
    Rose Law Firm, following his death?
 7
             Absolutely not.
 8
        O Now, did there come a time in 1991 when
 9
    Mrs. Clinton asked you to perform some legal services
10
    in connection with governor and Mrs. Clinton's
11
    investment in Whitewater Investment Corporation?
12
             Yes.
13
             And what were the circumstances behind that
14
    request?
15
            MR. KRAVITZ: Hasn't Mr. Kennedy already
16
    testified about this at great length this summer?
17
            MR. GIUFFRA: In fact, Mr. Kravitz, he --
            THE WITNESS: Are you talking about in
18
19
    front of this committee?
20
            MR. KRAVITZ: Didn't you testify about this
21
    in your deposition this past summer?
22
            MR. GIUFFRA: As I recall, an objection was
                                                            86
 1
    raised by Mr. Castellitto as to getting into the
2
    subject matter unless Mr. Atkins was present. Is
3
    that right, Mr. Castellitto?
4
            MR. CASTELLITTO: I don't recall whether it
5
    was on this topic. I certainly recall raising an
6
    objection about getting into Rose Law Firm matters.
7
            THE WITNESS: Neal, I testified something
8
    about it the other day in open hearings as
9
    Mr. Chertoff got into it, although I don't think in
10
    previous depositions, and there was an attempt to do
11
    so. And we did say it was a Rose Law Firm --
12
            MR. KRAVITZ: Maybe I am confusing it with
13
    testimony someone else gave about your work. It
14
    might have been Mr. Hubbell's deposition testimony
15
    about the work you did. If I am wrong I am wrong.
16
            BY MR. GIUFFRA:
17
             What were the circumstances surrounding
18
    that request for the performance of legal services
19
    for the First Family with regard to Whitewater?
20
        A I don't know, wanting not to split hairs
21
    with you when you say circumstances surrounding, the
```

First Lady simply asked me to do it.

		8
1	Q What did Mrs. Clinton ask you to do for her	
2	in connection with her investment in Whitewater	
3	Development Corporation?	
4	A She did not know the status of the real	
5	estate development. She did not know what was going	
6	on. She asked me my words for it are to take a	
7	snapshot of it, to ascertain the status of it.	
8	Q Did you open up a client matter in	
9	connection with the services that you performed?	
0	A I did not.	
1	Q And during that period, was it a practice	
2	of the firm that on some occasions lawyers would	
3	perform work in connection with other partners's	
4	investments?	
5	A The answer is yes.	
6	Q For example, a house closing?	
7	A A house closing, also, stuff like that.	
8	Q Did President and strike that.	
9	Did Governor and Mrs. Clinton ever formally	
20	retain the Rose Law Firm to perform these legal	
21	services in connection with their development in	
22	Whitewater Development Corporation?	8
1	MR. ATKINS: Help us with what you mean by	0
2	the words "formally retained."	
3	BY MR. GIUFFRA:	
4	Q Did President and Mrs. Clinton become a	
5	client of the Rose Law Firm in connection with their	
6	investment in Whitewater Development Corporation?	
7	A The answer to your question is, yes, with	
8	one caveat. I never spoke to the then governor about	
9	this. I dealt only with Hillary, Mrs. Clinton.	
10	Q In what respect did the did Mrs. Clinton	
11	and Governor Clinton become a client of the Rose Law	
12	Firm in connection with their investment in	
13	Whitewater Development Corporation?	
14	A I don't understand your question.	
15	Q You just testified that they became a	
16	client of the Rose Law Firm. You also testified	
17	that why don't we ask did you ever bill	
18	Governor and Mrs. Clinton for the legal services that	
19	you performed in connection with their investment in	
20 21	Whitewater Development Corporation?	

If you would estimate, what was the

22

Q

89 approximate amount of time that you spent on this 1 2 matter? 3 Α Unknown for sure, but probably less than 4 ten hours. 5 0 Did any other lawyers at the firm assist you in performing these legal services for the 6 7 Clintons? 8 No Α 9 What do you recall doing in the 10 hours 10 that you worked -- 10 hours or less that you worked 11 on the Clinton's investment in Whitewater Development Corporation? 12 Well, I engaged the services of one of the 13 14 firm's paralegals and we went and did an 15 investigation. 16 What was the name of the paralegal? 0 17 Sue Kathy Jones. Α And what sort of investigation did you and 18 19 Ms. Jones conduct? 20 Well, Mrs. Clinton had delivered to me a 21 box, two boxes actually, of -- which were, as she explained to me, all the records she had regarding 22 90 the Whitewater real estate development. We took a 1 2 quick run-through of those, and then we commenced a 3 search of the real estate records in the appropriate county to ascertain where it stood. 4 Did you make any requests for records from 5 Susan McDougal? 6 7 Α No. 8 Did you make any requests for records from 0 9 Jim McDougal? 10 Α No. Did you attempt to speak to Jim McDougal? 11 0 12 Α 13 Did you attempt to speak to Susan McDougal? 0 14 A No. Do you know if Mrs. Clinton attempted to 15 0 speak to Jim McDougal or Mrs. McDougal? 16 At this particular time frame? 17 Α 0 Yes. 18 19 Α I do not. 20 Are you aware of any other attempts -- any other attempts by Mrs. Clinton to speak to Jim or 21

Susan McDougal in connection with Governor and Mrs.

		91
1	Clinton's investment in Whitewater Development	
2	Corporation?	
3	MR. KRAVITZ: At any time?	
4	MR. GIUFFRA: Yes.	
5	THE WITNESS: We are saying in the known	
6	universe of time?	
7	BY MR. GIUFFRA:	
8	Q Did Mrs. Clinton indicate to you she had	
9	attempted to speak to Jim and Susan McDougal about	
10	their investment in Whitewater her investment in	
11	Whitewater Development Corporation in 1991?	
12	A Yes, she had previously had conversations	
13	with them.	
14	Q And were those conversations in 1991?	
15	A I don't think so. I believe they were	
16	earlier than that.	
17	Q And what did Mrs. Clinton say to you about	
18	her conversations with Jim is it Jim McDougal,	
19	Susan McDougal or both?	
20	A I don't remember at all her saying that she	
21	had ever spoken to Susan, but she basically said that	
22	she had talked with Jim McDougal previous to that	
		92
1	time and that she had tried to get all the records	92
2	time and that she had tried to get all the records that there were, and that, in one form or another,	92
		92
2	that there were, and that, in one form or another,	92
2	that there were, and that, in one form or another, Jim McDougal was putting pressure on her to get	92
2 3 4	that there were, and that, in one form or another, Jim McDougal was putting pressure on her to get she and the governor, the then governor, out of the	92
2 3 4 5	that there were, and that, in one form or another, Jim McDougal was putting pressure on her to get she and the governor, the then governor, out of the investment.	92
2 3 4 5 6	that there were, and that, in one form or another, Jim McDougal was putting pressure on her to get she and the governor, the then governor, out of the investment. Q Did she indicate to you why Mr. McDougal	92
2 3 4 5 6 7	that there were, and that, in one form or another, Jim McDougal was putting pressure on her to get she and the governor, the then governor, out of the investment. Q Did she indicate to you why Mr. McDougal wished to have Governor and Mrs. Clinton out of their	92
2 3 4 5 6 7 8	that there were, and that, in one form or another, Jim McDougal was putting pressure on her to get she and the governor, the then governor, out of the investment. Q Did she indicate to you why Mr. McDougal wished to have Governor and Mrs. Clinton out of their investment in Whitewater Development Corporation?	92
2 3 4 5 6 7 8 9	that there were, and that, in one form or another, Jim McDougal was putting pressure on her to get she and the governor, the then governor, out of the investment. Q Did she indicate to you why Mr. McDougal wished to have Governor and Mrs. Clinton out of their investment in Whitewater Development Corporation? A Some background is necessary.	92
2 3 4 5 6 7 8 9	that there were, and that, in one form or another, Jim McDougal was putting pressure on her to get she and the governor, the then governor, out of the investment. Q Did she indicate to you why Mr. McDougal wished to have Governor and Mrs. Clinton out of their investment in Whitewater Development Corporation? A Some background is necessary. At this point in time McDougal has been	92
2 3 4 5 6 7 8 9 110 111 112	that there were, and that, in one form or another, Jim McDougal was putting pressure on her to get she and the governor, the then governor, out of the investment. Q Did she indicate to you why Mr. McDougal wished to have Governor and Mrs. Clinton out of their investment in Whitewater Development Corporation? A Some background is necessary. At this point in time McDougal has been tossed out of Madison, tried and acquitted on	92
2 3 4 5 6 7 8 9 10 11	that there were, and that, in one form or another, Jim McDougal was putting pressure on her to get she and the governor, the then governor, out of the investment. Q Did she indicate to you why Mr. McDougal wished to have Governor and Mrs. Clinton out of their investment in Whitewater Development Corporation? A Some background is necessary. At this point in time McDougal has been tossed out of Madison, tried and acquitted on regulatory fraud matters, basically had a breakdown. I don't know if he and Susan are divorced at this	92
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2 3 4 5 6 7 8 9 110 111 112 113 114 115	that there were, and that, in one form or another, Jim McDougal was putting pressure on her to get she and the governor, the then governor, out of the investment. Q Did she indicate to you why Mr. McDougal wished to have Governor and Mrs. Clinton out of their investment in Whitewater Development Corporation? A Some background is necessary. At this point in time McDougal has been tossed out of Madison, tried and acquitted on regulatory fraud matters, basically had a breakdown. I don't know if he and Susan are divorced at this point, but they are living separate and apart. McDougal is a mess.	92
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2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17	that there were, and that, in one form or another, Jim McDougal was putting pressure on her to get she and the governor, the then governor, out of the investment. Q Did she indicate to you why Mr. McDougal wished to have Governor and Mrs. Clinton out of their investment in Whitewater Development Corporation? A Some background is necessary. At this point in time McDougal has been tossed out of Madison, tried and acquitted on regulatory fraud matters, basically had a breakdown. I don't know if he and Susan are divorced at this point, but they are living separate and apart. McDougal is a mess. Ms. Clinton said his behavior was erratic. Q This is in '91?	92
2 3 4 5 6 7 8 9 10 11 11 12 13 14 15 16 17	that there were, and that, in one form or another, Jim McDougal was putting pressure on her to get she and the governor, the then governor, out of the investment. Q Did she indicate to you why Mr. McDougal wished to have Governor and Mrs. Clinton out of their investment in Whitewater Development Corporation? A Some background is necessary. At this point in time McDougal has been tossed out of Madison, tried and acquitted on regulatory fraud matters, basically had a breakdown. I don't know if he and Susan are divorced at this point, but they are living separate and apart. McDougal is a mess. Ms. Clinton said his behavior was erratic. Q This is in '91? A When she is talking to me. His behavior	92
2 3 4 5 6 7 8 9 10 11 11 12 13 14 15 16 17 18	that there were, and that, in one form or another, Jim McDougal was putting pressure on her to get she and the governor, the then governor, out of the investment. Q Did she indicate to you why Mr. McDougal wished to have Governor and Mrs. Clinton out of their investment in Whitewater Development Corporation? A Some background is necessary. At this point in time McDougal has been tossed out of Madison, tried and acquitted on regulatory fraud matters, basically had a breakdown. I don't know if he and Susan are divorced at this point, but they are living separate and apart. McDougal is a mess. Ms. Clinton said his behavior was erratic. Q This is in '91? A When she is talking to me. His behavior was somewhat erratic in that he basically said, I did	92

Didn't get into that. 1 Α

0 But when were you asked by Mrs. Clinton -strike that.

When during 1991 were you asked by

Mrs. Clinton to provide some legal services in connection with Governor and Mrs. Clinton's

6 7 investment in Whitewater Development Corporation?

I think it was in March of 1991.

And did you perform all the services that 0 you performed in March of 1991?

A No. It dragged out over a period of some

12 months.

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Do you recall approximately how many months 0 this project dragged out over?

A I don't recall specifically, but probably 15 16 it went into June or July. To make a complete

17 answer, don't get the impression we were, we were 18 doing -- that we were working on this continually all

19 that time. It was sporadic in nature.

When you indicated that you spent less than ten hours working on Whitewater Development

22 Corporation matters, what's the basis for your

94

1 estimate of less than ten hours; did you have any 2 time records?

A I did not put any time down for this. This is my recollection of it.

5 What was your understanding as to when Mrs. Clinton spoke to Mr. McDougal? Would it have 6 7 been early '91 or sometime in '90?

I don't remember discussions about time

frame. I got the sense that some of these

10 discussions were relatively current. But, whether

they were in 1991 or 1990 or even earlier than that, 11

Bob, I cannot say. We didn't get into that, as to 12 when she had had these conversations with him. 13

Did Mrs. Clinton indicate to you approximately how many conversations she might have had with Jim McDougal?

No Α

Did she indicate to you whether Jim

19 McDougal had spoken to the governor? 20

She did not.

21 Do you have any understanding as to whether 22 Jim McDougal spoke to the governor in 1990 or 1991?

- 1 A I do not.
- Q Do you know whether Mrs. Clinton spoke to

3 Mr. McDougal after March of 1991?

- A I don't believe that she did. And that is based on, sort of, where our legal services went, but I don't believe she did.
- 7 Q Did Mrs. Clinton have an interest in 8 selling, she and Governor Clinton's investment in 9 Whitewater Development Corporation back to 10 Mr. McDougal?

A I can't answer, Bob, as to what was in her mind. The best way to say, to describe sort of her attitude about it was, is that she had almost no knowledge about what was going on with it. She wanted to get into a position where she could make some decisions about what to do about it.

Q Did she indicate to you approximately how much money she and Governor Clinton had invested in Whitewater Development Corporation?

20 A No, she did not.

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Q Did she indicate to you whether she and

22 Governor Clinton had any outstanding liabilities with

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regard to Whitewater Development Corporation?

A Yes, she did.

Q And what did she say about any outstanding liabilities she and Governor Clinton might have had with Whitewater Development Corporation?

A What she said was, is that she and the then governor were on a mortgage relating to the initial acquisition of the land. And she thought that the mortgage was being serviced from land sales contracts, but she wasn't sure. She did not know the principal amount of that mortgage.

12 Q What was the basis -- did she indicate to 13 you what the basis was for her belief that this 14 mortgage was being serviced from sales of land 15 contracts?

A Because she was receiving no indication of -- I mean, they weren't dunning her or anything. As far as she knew at the time, it was being serviced on that basis, but she wasn't totally certain of that.

Q Did she indicate to you that -- whether
Mr. McDougal was threatening in any way to make an

1 issue of Governor and Mrs. Clinton's investment in2 Whitewater Development Corporation?

4 5

 A Well, I think I've already answered that. She said that he was putting pressure on her to get out of it. To get it over to them, to him.

Q What sort of pressure was Mr. McDougal placing on Mrs. Clinton?

A She did not go into detail as to what, if anything, he was threatening to do, but she was very clear that he was wanting these -- the Clintons' stock to be conveyed to him.

Q But she didn't indicate to you -- you have no understanding of the nature of the pressure that Mr. McDougal was threatening to bring to bear if the stock was not transferred to him?

A No, as I explained. Some of this -- I knew some of this -- the background I gave you about where Mr. McDougal was at this point in time I knew from sort of just being in Arkansas, and some of this she told me about. For example, I did not know at that

told me about. For example, I did not know at that
 time that he was -- I can't remember what the phrase

22 is, manic-depressive or whatever he was, but she

described his behavior as erratic.

Q Did she indicate why his behavior was erratic in any specific way?

A No. I mean, I am trying to convey to you a sense of this.

She described his behavior as erratic, someone that was not acting rationally, someone that she couldn't deal with.

Q Now, when you reviewed the two boxes of files that you obtained from Mrs. Clinton, what did you see in those files?

A Okay, I am going to draw a dichotomy for you.

One box was, the best word for it is a mish-mash of records, and I mean that in the purest sense of the word. No organization, chaotic, incomplete documents, no stock certificates, a mess.

The other box, to this day, I have never really truly known what it was. But it was a compilation of what looked to be some sort of notices, and you could not look at them and tell what they were. I have always assumed, but never been

able to confirm, that they probably were payment notices issued by the bank indicating when payments had been received on contracts for sale of the lots in Whitewater. But I never got final confirmation of that.

Q For approximately how long were these boxes in your possession?

A I would say, roughly, from late in March of 1991 up until, I would say, February of 1992. And when I say "my possession," that's the Rose Law Firm's possession.

Q Where did you maintain these files?

A They were in my office for a while. Then they were in Sue Kathy Jones' office for a while.

Q And in February 1992, where were the boxes located?

A At some point, I believe during that month, they were delivered to the campaign.

Q They were -- before being delivered to the campaign, were they in Sue Kathy Jones' office?

A They were either in her office or mine.

O You can't remember which office they were?

100

A No, I don't. Most of the time I think they
were in Sue's, but they were in mine for a while
and -- I'm sorry, Bob, I just don't remember.

What do you recall about the circumstance

Q What do you recall about the circumstances surrounding the transfer of those boxes to the campaign?

A Okay.

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A bit of a long answer, indulge me.

At about the time -- in Arkansas, it is impossible to do what The New York Times did without people hearing about it, and I am talking about the "seminal but badly flawed Jeff Gerth" article.

Rumors kicked around for some time that The New York Times was working on an article about Whitewater. The campaign geared up to make a

response. A woman named Loretta Lynch was identified to me as someone who would be trying to get, on

behalf of the campaign, her arms around what

19 Whitewater was. So on at least one, but maybe a

20 couple of occasions she came over to the law firm and

21 reviewed those records.

Following that, at some point they were

1 delivered to the campaign.

2 Do you know who asked that the files be 3 delivered to the campaign?

I do not

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5 0 Do you know who, at the campaign, the files 6 were delivered to?

> Α I do not

8 Do you know if Mrs. Clinton had a role in 9 the transfer of the files from the Rose Law Firm to 10 the campaign?

Okay, complicated answer here. I do not know for sure, I believe that she did. And I will tell you why.

14 I went away on a trip in either February or March. I think it was in February. When I came 15 back, late on a Sunday night, 9:00 or 10:00, there 16

17 was a message on my answering machine at home -- and

my family had gone with me -- there was a message on 18

19 my answering machine at home from Mrs. Clinton asking

20 me to call her as soon as I got the message. And

21 saying that she needed to get -- she -- that the --

22 she didn't need this, but the Whitewater records that

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1 I had, the firm had, needed to go to the campaign, 2 and would I call her.

As soon as I got that message, of course I tried to reach her, but I could not. She was gone somewhere.

The next morning when I came to the office, 7 Sue Kathy Jones came and told me that she had gotten 8 a similar phone call, also on this Saturday. And I 9 am not sure whether her phone call was from Ms. Huber 10 or from Ms. Clinton or somebody else. I don't know 11 who called her, but she had gotten a similar phone 12 call, and she and her husband had loaded up and come 13 down to the firm, to get the records, to deliver them 14 to the campaign. When she came to the firm the 15 records were gone.

She didn't know what to do, so she went over to the campaign, which was a block and a half from the law firm, and there the records were. She did not deliver them and I did not deliver them. And how they got there, I don't know.

21 Did anyone ever advise you as to how the 22 Whitewater records were transferred from the Rose Law

		103
1	Firm to the campaign?	
2	A No.	
3	Q Did you ever ask anyone about how the	
4	records were transferred?	
5	A No. I didn't have any reason to. It	
6	wasn't that big a deal at the time.	
7	Q Now, during 1991 you attempted to determine	
8	the status of the Clintons' investment in	
9	Whitewater. Did you ever come to a judgment with	
10	regard to the status of their investment in	
11	Whitewater?	
12	A We came to a position where I could	
13	accurately describe the real estate investment to	
14	them, where it stood.	
15	Q And did you advise Mrs. Clinton as to what	
16	you believed to be the status of the real estate	
17	investment?	
18	A Yes.	
19	Q What did you tell Mrs. Clinton about the	
20	status of their investment in Whitewater Development	
21	Corporation?	
22	A I told her that we had a pretty good handle	
		104
1		
-	on the fact that all the lots had been sold, that the	
2	mortgage was indeed being serviced from contract for	
3	mortgage was indeed being serviced from contract for deed sales, that as near as we could tell, it looked	
3 4	mortgage was indeed being serviced from contract for deed sales, that as near as we could tell, it looked like that if left alone, that would play out. In	
3 4 5	mortgage was indeed being serviced from contract for deed sales, that as near as we could tell, it looked like that if left alone, that would play out. In other words, those contracts for deeds would service	
3 4 5 6	mortgage was indeed being serviced from contract for deed sales, that as near as we could tell, it looked like that if left alone, that would play out. In other words, those contracts for deeds would service the mortgage to finality.	
3 4 5 6 7	mortgage was indeed being serviced from contract for deed sales, that as near as we could tell, it looked like that if left alone, that would play out. In other words, those contracts for deeds would service the mortgage to finality. And I told her that there were lots and	
3 4 5 6 7 8	mortgage was indeed being serviced from contract for deed sales, that as near as we could tell, it looked like that if left alone, that would play out. In other words, those contracts for deeds would service the mortgage to finality. And I told her that there were lots and lots of questions that didn't have answers.	
3 4 5 6 7 8 9	mortgage was indeed being serviced from contract for deed sales, that as near as we could tell, it looked like that if left alone, that would play out. In other words, those contracts for deeds would service the mortgage to finality. And I told her that there were lots and lots of questions that didn't have answers. Q The questions that you told Mrs. Clinton	
3 4 5 6 7 8 9	mortgage was indeed being serviced from contract for deed sales, that as near as we could tell, it looked like that if left alone, that would play out. In other words, those contracts for deeds would service the mortgage to finality. And I told her that there were lots and lots of questions that didn't have answers. Q The questions that you told Mrs. Clinton strike that.	
3 4 5 6 7 8 9 10	mortgage was indeed being serviced from contract for deed sales, that as near as we could tell, it looked like that if left alone, that would play out. In other words, those contracts for deeds would service the mortgage to finality. And I told her that there were lots and lots of questions that didn't have answers. Q The questions that you told Mrs. Clinton strike that. Do you recall any of the questions that you	
3 4 5 6 7 8 9 10 11	mortgage was indeed being serviced from contract for deed sales, that as near as we could tell, it looked like that if left alone, that would play out. In other words, those contracts for deeds would service the mortgage to finality. And I told her that there were lots and lots of questions that didn't have answers. Q The questions that you told Mrs. Clinton strike that. Do you recall any of the questions that you raised with Mrs. Clinton?	
3 4 5 6 7 8 9 10 11 12 13	mortgage was indeed being serviced from contract for deed sales, that as near as we could tell, it looked like that if left alone, that would play out. In other words, those contracts for deeds would service the mortgage to finality. And I told her that there were lots and lots of questions that didn't have answers. Q The questions that you told Mrs. Clinton strike that. Do you recall any of the questions that you raised with Mrs. Clinton? A The main ones were I mean, this is	
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3 4 5 6 7 8 9 10 11 12 13 14 15 16 17	mortgage was indeed being serviced from contract for deed sales, that as near as we could tell, it looked like that if left alone, that would play out. In other words, those contracts for deeds would service the mortgage to finality. And I told her that there were lots and lots of questions that didn't have answers. Q The questions that you told Mrs. Clinton strike that. Do you recall any of the questions that you raised with Mrs. Clinton? A The main ones were I mean, this is difficult. I have tried I will try to stick to the main ones, but no stock certificates could be found, no stock record book, no stock minute books. The corporation was a mess. I told her there were	
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3 4 5 6 7 8 9 10 11 12 13 14 15 16 17	mortgage was indeed being serviced from contract for deed sales, that as near as we could tell, it looked like that if left alone, that would play out. In other words, those contracts for deeds would service the mortgage to finality. And I told her that there were lots and lots of questions that didn't have answers. Q The questions that you told Mrs. Clinton strike that. Do you recall any of the questions that you raised with Mrs. Clinton? A The main ones were I mean, this is difficult. I have tried I will try to stick to the main ones, but no stock certificates could be found, no stock record book, no stock minute books. The corporation was a mess. I told her there were	

curious transaction which had appeared in the real estate records involving something called Ozark Air,

which we had learned had involved some sort of a transfer of a number of lots to a guy named Chris

3 Wade in return for an airplane, which made no sense

4 to me at the time. And supposedly as part of that,

5 he had assumed part of the mortgage, although there

6 were no records to that effect whatsoever.

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Q Who ultimately received the plane, as far as you know? Who ultimately obtained the plane?

A Well, I subsequently learned the plane ultimately wound up in Seth Ward's hands, subsequently. Much, much later I learned that.

That not only was the mortgage being serviced by the sort of the aggregate of the contract for deeds, but there was an overage there should have been a cash buildup in the relevant accounts, but that somebody was pulling that money out. Those are the main things.

Q Did you make any judgments as to who was pulling the money out of the corporation?

A As part of my investigation I spoke to a banker up there whose name escapes me right now; called him on the phone. He, without -- without

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evidence in writing and quite properly so, would nottell me where that money was going.

But he, unequivocally, said that money was leaving that account. I never was able to find out where it was going.

Q Do you recall the name of the bank -- do you recall the name of the bank at which this banker worked?

A I get them confused, I apologize. It is either Citizens Bank, I think it is Citizens Bank of Flippin.

12 Q What was Mrs. Clinton's response when you 13 raised these questions with her?

A The other thing that we talked about when I sort of gave her an umbrella overview was, I suggested a couple of courses of action to her to sort of start the ball rolling to try and bring this back into some sort of coherent shape. And I say "this," I am talking about the real estate

20 development in the corporation.

And I suggested to her that we might want to take the position that the stock record books were

- 1 lost and needed to be reconstituted and to write
- 2 letters to McDougal about that. She suggested that
- we draft some letters for her review, which we did. 3
- 4 But there was never any action taken on that, never
- any action authorized. And the next words from her 5 6 was to stop.

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- 0 When did Mrs. Clinton ask you to stop doing further work on Whitewater?
 - I believe it was in October of 1991.
- 0 And did she indicate to you why she wanted you to stop doing work on the Whitewater investment?
- 12 She did not. She simply said she had some other things to do and she didn't want to deal with 13 14 it right now.
- 15 Is it your testimony, you recall speaking with her initially in approximately March '91 doing 16 17 some work running through July '91, and then she called you October of '91 and said don't do any more 18 19 work?
- 20 What you have to understand, and which I have not testified to you about before is, is that 21

the reason why the work I described as sporadic is 22

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1 that, and this was no surprise to me at the time and 2

there was nothing unusual about it, I couldn't get to Mrs. Clinton to get her to make decisions because of

her incredibly busy schedule even back then. 4

- Did you ask Mrs. Clinton whether you should keep doing work in October of 1991 or did she contact
- 6 7 you? 8 Well, what happened is, is that we got to a
- 9 point where -- and I can't remember precisely when this was, it was sometime after July, I think, where 10
- 11 we felt -- I felt like we were in a position to give
- 12 her some decent advice. And I began to try to
- 13 contact her, to set up a time to do that. And I
- 14 don't recall the specific times, Bob, but somewhere,
- 15 August, September is when we had the conversation,
- this is what we found: We need to reconstitute the 16
- 17 corporation, let's maybe proceed down this road,
- 18 okay, drafted letters for her, left messages, called
- 19 her, came by to see her, she is not there. Then in
- 20 October, I think the early part of October, she
- said -- when I finally did talk to her, she said no, 21
- 22 I want you all to stop.

109 1 She never indicated why she wanted you to 2 stop? 3 No, she just said she had some other things Α 4 to do. 5 When was the next time you spoke to 0 6 Mrs. Clinton about Whitewater? 7 I think that was the last time. 8 So your testimony is you have had no conversation with Mrs. Clinton, between approximately 9 10 October 1991 and the present, about Whitewater? 11 Yes. If you go back and look at the record 12 they announced, the governor announced his campaign 13 for Presidency in October 1991. And, as I testified 14 previously, from that point on, she was not much at 15 the firm. 16 Q And during the time when you were at the 17 White House, you didn't have any conversations with 18 Mrs. Clinton about Whitewater Development 19 Corporation? 20 A I did not. Q During the time you were at the White 21 22 House, did you have any conversation with Maggie 110 1 Williams about Whitewater Development Corporation? 2 I did not A 3 0 Bernard Nussbaum? 4 Α 5 When was the first conversation you had 6 with Bernard Nussbaum about Whitewater Development 7 Corporation? 8 I can't recall the specific time. I mean, 9 I just simply do not know, but I made Bernie aware 10 that I had performed legal services for the Clintons 11 and had some knowledge about Whitewater. 12 Is this before or after Mr. Foster's death? 13 Probably after Mr. Foster's death. As a matter of fact, I am certain it was after Vince's 14 15 death, but I can't remember when, how soon after. 16 Q And since 19 -- since January 1, 1981 --17 strike that. 18 Since January 1, 1991, have you ever

21 Since January 1, 1991 to now, have I ever 22 discussed with Mrs. Clinton --

Madison with Mrs. Clinton?

discussed the Rose Law Firm's representation of

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             The Rose Law Firm's --
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        Α
             No
            MR. ATKINS: Wait a minute, we are talking
 3
 4
    about 1991. Wasn't that the year you were doing the
 5
    work?
 6
            THE WITNESS: Yes, but he asked if I
 7
    discussed Madison with her.
 8
            MR. ATKINS: I'm sorry.
9
            BY MR. GIUFFRA:
10
             Did there come a time in 1993 that you
    learned that the Rose Law Firm was concerned about
11
    certain disbursements that Mr. Hubbell had been
12
13
    compensated for while he was a partner of the Rose
14
    Law Firm? Let me rephrase the question.
15
            Did there come a time in 1993 when you
16
    learned that Mr. Clark and others at the Rose Law
17
    Firm were concerned about certain expense items that
18
    Mr. Hubbell had been paid for while he was a partner
19
    at the Rose Law Firm.
20
            MR. KRAVITZ: Bob, you know you spent at
21
    least an hour on this subject in Mr. Clark's
22
    deposition. It is now 2:45, we have been going since
                                                           112
 1
    10:00. You have not yet asked a single question
    about the subject matter of this deposition, which
 2
 3
    was the November 5, 1993 meeting. We have hearings
 4
    starting tomorrow morning. This is of such
    tangential relevance. I remember your argument from
 5
    Mr. Clark's deposition that this is relevant to
 6
 7
    Mr. Hubbell's credibility.
 8
            MR. GIUFFRA: You have taken enough time
 9
    with the speech, we could probably get an answer.
10
            MR. KRAVITZ: Why don't you stop
11
    interrupting me because it is important to make my
12
    comments since you are probably planning on going
    into this for an hour. But you guys are constantly
13
14
    saving that you need more time and it is stuff like
15
    this, where you waste everybody's time, that has
    resulted in your not finishing your investigation
16
    when you are supposed to be finishing it.
17
18
            MR. GIUFFRA: Do you recall the question,
19
     Mr. Kennedy?
20
            THE WITNESS: I would like for it to be
21
    restated if you don't mind.
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(The reporter read the record as requested.)

113 1 THE WITNESS: Bob, the question is -- and 2 you didn't do this on purpose, but the question to me 3 is somewhat inelegant because -- and I am going to answer the question I think you are asking and if I 4 5 am wrong, just tell me so. 6 In -- I did not know in 1993 of the 7 behavior of Web's that led to his ultimate criminal 8 conviction and subsequent jail term. 9 Did I know there was a problem with 10 disbursements? Yes. Insofar as they related to what 11 we called "the POM matter." 12 BY MR. GIUFFRA: 13 And when did you learn that there was a 14 matter with regard to disbursement in connection with 15 the POM matter? 16 Let me tell you what the POM matter was, 17 because I don't want any confusion between this matter and the other matter which I don't know how to 18 19 describe on a shorthand basis. POM was a lawsuit 20 that Web undertook. It was an antitrust lawsuit on 21 behalf of a company that was owned by his in-laws. 22 He took it on a contingency basis. He ran up a 114 1 number -- a sizeable number of costs and expenses in 2 pursuing this lawsuit. And the lawsuit was ultimately lost, which left the firm with a sizeable 3 4 number of expenses to be eaten. And there were 5 disputes about the quantity of those disbursements, 6 and the fact that they were incurred on the basis 7 they were incurred. That's what I am talking about. I had knowledge of that because that had gone on in 8 1991 and 1992. 9 10 Do you recall it being raised with you in 11 May of 1993? 12 No. Again, when you say "it," are we talking POM or the other matters. 13 Let's do POM first. 14 0 15 Α No. 16 0 When did you learn of the other, I guess, 17 the RTC related problem with regard to disbursement? MR. ATKINS: I am going to object to that, 18 when you use the words "RTC related." Why don't we 19

refer to it as Mr. Hubbell's theft from the firm.

When did you learn of Mr. Hubbell's theft

BY MR. GIUFFRA:

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from the firm? 1 2 I did not know the particulars of what 3 Mr. Hubbell was alleged to do until press reports 4 surfaced. 5 I ran into Ron Clark in January of 1994 and 6 he told me that Web had serious problems. And when I 7 asked him what they were, he declined to tell me. 8 O Did you attempt to ascertain from anyone at 9 the Rose Law Firm what those problems were? 10 Α I did not 11 Did there come a time when you discussed 0 12 Mr. Hubbell's -- strike that. Did there come a time when you discussed 13 the conduct that led to Mr. Hubbell's felony 14 15 conviction with him? 16 Α With Mr. Hubbell? 17 Yes. 0 18 I get the timing as to -- if you -- if you 19 use a sort of linchpin date, the day that he formally 20 pled guilty, not too much before then Web called me and apologized. But this was sometime after his 21 22 resignation, press reports, all the stuff that 116 1 transpired about that. He told me he had done wrong 2 things at the firm and he was very sorry. 3 O You never discussed this matter with 4 Mr. Hubbell in 1993? 5 No. I did not know that it was going on in 6 1993 7 Let's turn to this November 5, 1993 8 meeting. Now, these are documents bearing Bates 9 numbers 12517 through 12528, those are handwritten 10 notes you prepared of this meeting? Yes. 11 12 When did you prepare the typed version of 0 13 your handwritten notes, which bears Bates numbers 14 12529 to 12538? 15 Α I think around the middle of 1994. 16 0 Why did you prepare a typed version of your 17 notes? 18 Because my counsel informed me rather 19 firmly that they could not read my handwritten 20 version.

And who could not read your handwritten

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version?

1018 117 1 Α Mr. Castellitto. 2 He could not read your handwritten version? 0 3 A Right. 4 0 And you prepared this document -- strike 5 that. 6 Did anyone assist you in preparing this 7 typed version of your notes? 8 No. A 9 Did you provide a typed version -- copy of 0 the typed version of your notes to anyone at the 10 11 White House? 12 A No, just to my counsel. MR. KRAVITZ: Did you actually type them 13 14 yourself? THE WITNESS: Yes. Which is why I did such 15 16 a poor job. 17 BY MR. GIUFFRA: Were you still at the White House when you 18 19 typed these notes up? 20 Was it in '94? Yes. Α 21 O Do you recall approximately when you would 22 have typed these up? 118 1 As I say, it was the middle of 1994. I don't remember precisely when. 2 3 O Have you ever received any comments with regard to the typed version of your notes from 4 5 anvone? MR. KRAVITZ: Other than his counsel? 6 7 BY MR. GIUFFRA: 8 Other than your counsel? 0 A Are you excluding this press commentary? 9 I will rephrase the question. 10 Q 11 Α That's a very serious answer on my part. 12 The comments. 13 I agree it is poorly phrased. If you know, was a typed version of your 14 15 notes circulated to any of the other attendees at this meeting? 16 17 As I've testified earlier, the typed 18 version of these notes was prepared at the request of my counsel and delivered by me, solely to my 19 20 counsel. 21

Q Okay. Do you know whether your counsel spoke to anyone at the White House about these notes?

1 A You will have to ask him about that.

Q Did he advise that you he spoke with anyone at the White House about these notes?

A I am not going to -- Bob, I think you can respect this. I am not talk about my conversations with my counsel. I am not waiving any privilege.

Q And just so that we can set the record straight, to the best of your recollection you had this meeting with Mr. Kendall, the meeting on the 4th with Mr. Kendall and your luncheon with Mr. Kendall?

A That's correct, and I probably bumped into him some in the White House under circumstances that I would not call a meeting.

Q And you may have had some telephone conversation with Mr. Kendall?

A Just the one that I testified about earlier.

Q Okay. Did you have any other meetings with anyone from Mr. Kendall's law firm?

20 A No.

Q Did you speak on the phone with anyone from Mr. Kendall's law firm?

A No, I don't think so.

Q Did you, in 1993-1994, speak to Mr. Lyons about anything having to do with Whitewater or Madison?

A Time frame again?

6 Q '93-94.

A Well, Mr. Lyons was at this meeting.

Q Other than at this meeting?

9 A No.

Q What was your understanding of the purpose of this November 5 meeting?

A The purpose of the November 5 meeting was to get Mr. Kendall sort of up to speed on Whitewater matters and to sort of come up with an appropriate division of labor between the White House and the President's personal lawyers.

Q Do you remember who called the meeting?

A I don't know who called the meeting.

Q Who notified you of the fact that there would be a meeting?

21 A Bernie did.

Q What did Bernie say to you about this

1020 121 1 meeting before you attended the meeting? 2 Simply that there was going to be a meeting 3 at Kendall's office to get him up to speed and I needed to come. 4 5 0 Did Mr. Nussbaum indicate to you why you 6 needed to attend this meeting? 7 No. 8 0 Did you have any understanding as to why 9 you were being invited to attend this meeting? 10 I presume it came from the fact that I had previously told him earlier that I had knowledge 11 about Whitewater. 12 13 Do you know whether the President or First 14 Lady were aware of this meeting? 15 I have no idea. 16 Did you speak to the President or First O 17 Lady, prior to this meeting, about the meeting or the issues that were to be discussed at the meeting? 18 19 I did not 20 Did you speak to the President or First 0 Lady, after this meeting, about the meeting or the 21 22 issues that were discussed at the meeting? 122 1 Α I did not. Excuse me. I did not. 2 Following this meeting, did you discuss Whitewater or Madison related issues with the First 3 4 Lady? 5 I did not. Α Following this meeting, did you discuss 6 0 7 Madison or Whitewater issues with the President? 8 I did not. Α 9 Do you know whether Mr. Blair was invited 0 to attend this meeting? 10 11 Α I do not know. 12 Do you know whether Mr. Hubbell was invited 0 to attend this meeting? 13 14 Α I don't know.

Following this meeting, did you discuss

Following this meeting, did you discuss the

this meeting, or the issues that were discussed, with

meeting, or the issues that were discussed at the

21 meeting, with Ms. Thomases? 22 A No, I did not.

No. I did not.

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Mr. Hubbell?

123 Q Following this meeting, did you discuss the 1 2 meeting, or the issues that were discussed at the meeting, with Maggie Williams? 3 I did not. 4 5 Following the meeting, did you discuss the meeting or the issues that were discussed at the 6 7 meeting with anyone? 8 A No, I don't recall doing so. My hesitation 9 is very simple. I am trying to remember if in some 10 form or fashion it came up in these daily counsel meetings, but I don't recall it doing so. 11 12 Q So it would be your testimony, you don't 13 recall any discussion of this meeting at the daily 14 counsels meeting, the meetings of the White House staff? 15 16 Α No. 17 Who ran this meeting? 18 Α Mr. Kendall. 19 0 Was there any sort of an agenda for this 20 meeting? 21 No. By that, I mean, I assume you mean A some sort of printed agenda or blackboard agenda or 22 124 1 something like that. No. 2 Were you given any materials in advance of 3 the meeting? 4 Α 5 Do you recall whether anyone brought any 6. materials with them to the meeting? 7 I think that Bruce Lindsey had some 8 materials he brought, and I think that Jim Lyons did 9 as well. 10 Do you recall what materials Mr. Lindsey 11 brought to the meeting? 12 I believe he had some copies of some 13 canceled checks. 14 Did he bring anything else with him to the 15 meeting, that you can recall? 16 No, I think that's it. 17 Did Mr. Lyons bring anything with him to 18 the meeting? 19 A I believe he had a file or files with him. 20 Do you recall what those files contained? 21 No. With one caveat he did circulate to

everybody a company's list or a list of entities

		125
1	involved in this matter.	
2	Q When you say "this matter," do you mean	
3	Whitewater Development Corporation or Madison	
4	Guaranty?	
5	A Whitewater Development, primarily.	
6	Q Was there a list of entities having	
7	strike that.	
8	Were there entities not involved with	
9	Whitewater Development Corporation on this list he	
0	gave everyone?	
11	A I can't answer that.	
12	Q Do you recall whether anybody other than	
13	yourself took notes at the meeting?	
14	A I don't believe anybody else did.	
15	Q Were you the person who was assigned to act	
16	as the scrivener at this meeting?	
17	A Nope, just an energetic guy. No, Bob, I	
18	was not tasked do that. I just did it.	
19	Q Do you recall the time of the meeting; when	
20	it started?	
21	A Really, I can't remember. As I previously	
22	testified in open hearing, it lasted a little over a	
		126
1	couple of hours. And I want to say it was early	
2	afternoon.	
3	Q Was anyone contacted by phone or fax during	
4	the meeting?	
5	A No, I don't believe so.	
6	Q At the conclusion of the meeting, was	
7	anyone asked to contact Mr. Blair?	
8	A No, I don't believe so.	
9	Q Was anyone asked to contact Mr. Hubbell?	
10	A No, I don't believe so.	
11	Q Was anyone contacted to brief the President	
12	about the meeting?	
13	A Not to my knowledge, no.	
14	Q Was anyone asked to brief the First Lady	
15	about the meeting?	
16	A Not my knowledge, no.	
17	Q Was anyone asked to contact anyone	
18	following this meeting, that you can recall?	
19	A That's a difficult question to answer. The	
20	technical answer is no, but, you know, the purpose of	
21	the meeting was to get Kendall up to speed so he	

could start doing his job. So I presume he went out

1 and started to do his job.

Q You mentioned one of the purposes of the meeting was to divide responsibilities between Mr. Kendall and the White House counsel's office. Do you remember that testimony?

A Yes.

Q Was any decision made at the meeting with regard to how responsibilities would be divided with regard to Whitewater matters between Mr. Kendall and the White House counsel's office?

A Not in terms of specifics, but it was -- it was clear that things had reached a point where personal counsel was going to have to get involved and undertake the lion's share of it. And it was also clear that the White House was going to have to continue to play a role. And so the thesis was to get Mr. Kendall up and running, let him start doing his job and for the White House, through the White House counsel's office, to cooperate in that effort.

Q Why was it clear that Mr. Kendall -- strike that.

Why was it clear that the White House

counsel's office could no longer handle the lion's share of the efforts with regard to Whitewater?

A Things were beginning -- things were beginning to reach a point where it was beginning to be a crescendo of articles in the press about various investigations which were commencing, and it -- it had begun to rise to a level where you could no longer respond in an official capacity. It was getting into an area where private counsel for the Clintons was absolutely appropriate.

Q Do you recall any discussion, either at or prior to this meeting with respect to the appropriateness of the White House counsel's office, with regard to Madison/Whitewater matters?

with regard to Madison/Whitewater matters?
 A No. There was always a sensitivity in the

White House counsel's office, from day one, about not blurring the roles of official/personal business,

18 except where necessities required it. So there was19 that sensitivity, but I don't recall specific

20 discussions about this point.

Q Do you recall any instances where necessities required blurring the roles between

1 official and private?

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A Well, let me give you a specific -- I will give you two specifics.

Formation of a blind trust for the Clintons required interaction of personal and public, filing of tax returns requires interaction of personal and public.

Q Did Mr. Nussbaum ever express to you any concern about the extent of the White House counsel's office involvement in matters relating to Madison or

11 Whitewater?

12 A No.

Q If we could just take a look at the handwritten notes at 12517, first page.

A Okay.

16 Q What does the check mark next to

17 Mr. Eggleston's name signify?

18 A I don't know.

Q Do you recall whether Mr. Eggleston was given any specific instructions at or after this

21 meeting?

A I don't believe so. As I previously

130

testified, I don't remember anybody being given anyspecific instructions.

Q Do you recall any discussion at this meeting of the need to prepare a chronology of either Whitewater or Madison related events?

A It seems like to me, without recalling the specifics, that that was something Kendall thought would be appropriate.

Q And did Mr. Kendall indicate who would prepare this chronology, whether it would be a joint project?

A I don't recall.

Q Do you recall whether anyone was directed to prepare a chronology at the meeting?

A As I said, I don't think anybody was given specific tasks at this point.

Q When you wrote down points 1, 2, 3 and 4 at the top of your notes, was that -- do you recall who said that?

A Mr. Kendall did.

Q And Mr. Kendall was indicating what the purpose of the meeting was?

Well, it's more sort of tasks that he 1 2 foresaw that he was going to start needing to do.

Is it your recollection that these were all tasks that Mr. Kendall was going to perform, one, two, three and four?

Yes, well, with the caveat of, like three and four, there would have to be White House involvement because all the press requests were coming into the White House.

But it was your understanding Mr. Kendall would be the one gathering the facts and preparing chronologies?

> Α Primarily, yes.

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14 Do you recall any discussion of any role by anyone at the White House in terms of gathering the 15 16 facts?

17 Well, the short answer is, is that a lot of 18 the facts were coming in through the press -- or allegations, if you will. But some of them turned 19 20 out to be true and some of them weren't. Most of them weren't.

But, clearly there had to be communication

132

between the White House and Mr. Kendall as press allegations came in.

This reference to try to find out what's going on in the investigation, what do you recall about that discussion?

Well, the word is actually "investigations," plural. That's one of more than

several mistakes when I typed it up, but that was just a task Mr. Kendall was going to undertake doing his job.

Your recollection was that this task would be performed solely by Mr. Kendall?

> Α Yes.

What's the basis of your belief that only Mr. Kendall would attempt to find out what was going on with regard to investigations?

17 Because that's what he was being employed Α 18 to do.

> O Now, as of this November -- strike that.

At this November 5 meeting, was there any discussion of the fact that persons from the White

21 22 House had met with persons at the Treasury Department

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1
    with regard to Whitewater Madison issues?
2
             No, I don't recall such discussion.
3
        0
             Were you aware of the fact that, on October
4
    14, 1993, Mr. Nussbaum, Mr. Eggleston, Mr. Gearan and
    Lindsey and Sloan had met with Mr. DeVore and
5
6
    Ms. Hanson and Mr. Steiner?
7
             The only thing that I knew sort of
8
    independently, Bob, was, if I remember correctly, I
9
    had received a copy of a memo that Bruce had written
10
    about a -- a memo to the file about a situation with
11
    Mr. DeVore. And I think, prior to this time, there
12
    were press reports about these contacts. If I am
13
    wrong about that, my first knowledge about -- okay,
    my first knowledge about these contacts would have
14
15
    been from the press. Okav.
16
            And so, if the press reports had not
17
    occurred prior to this meeting, I didn't know it at
18
    the time.
            MR. KRAVITZ: It may refresh your memory,
19
20
    the memo that you are referring to, Mr. Lindsey's
21
    memo to the file was dated October 20, 1993.
22
            And I am certain that there were no press
                                                           134
 1
    reports about the White House-Treasury meetings as of
 2
    November 5, 1993.
 3
            THE WITNESS: As I testified, apart from
 4
    the DeVore memo to the file, I had no knowledge of
 5
    any Treasury -- what has been grouped together as
    White House-Treasury contacts, and they were not
 6
 7
    discussed at this meeting.
 8
            MR. KRAVITZ: I don't know the Bates number
 9
    of that document, but it does have your name as a cc.
10
            BY MR. GIUFFRA:
11
            I think you testified previously you
12
    received a copy of that document?
13
            Yes, I did.
        Α
14
             I will take you through the notes.
15
            Midway down the first page it says, "HRC
16
    representation of Madison -- not much activity
17
    representing people before agencies to RLF letters.
    Beverly Bassett one, Madison two PP preferred
18
19
     stock." Okay, what does "PP" refer to?
20
             Private placement.
21
             And during this portion of the meeting, did
        0
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Mr. Lindsey do most of the talking?

A Yes.

Q Did he do most of the talking the entire meeting or did there come a time when someone else did some talking?

A Bruce did most of the talking for most of the meeting, but there came a time when, sort of, Jim Lyons took over.

Q So it would have been Mr. Lindsey who raised the issue of Mrs. Clinton's representation of Madison that started the meeting?

A I am sort of balking at the phrase "raising the issues." He provided background here.

Q Do you know why Mr. Lindsey provided background about Mrs. Clinton's representation of Madison early in the meeting?

A Because it had -- it was an issue, much as Whitewater -- it was an issue during the campaign.

Q Did you have any understanding at the time meeting that this was a matter of serious concern?

A No. It was just part of the landscape.

Q What do you recall Mr. Lindsey saying about Mrs. Clinton's representation of Madison?

A Basically this right here.

Q Were you attempting to take fairly verbatim notes?

A No, obviously they are not verbatim. I tried to hit the high points.

For your information, I was injured in a car wreck in 1988, serious injury to my right hand and arm and I don't -- as my handwriting indicates, although it was bad, as anyone would tell you, before my car wreck.

Q I don't think it is that bad, actually.

A The short answer is it is difficult for me to take notes and I don't do very well at it, but (indicating) a real bad injury.

Q You attempted to be as accurate as possible in taking these notes?

A Yes. But --

Q That would be normal -- practice would be to take accurate, contemporaneous notes?

A As best I am able.

Q It is your testimony, you have no knowledge as to whether the question of Mrs. Clinton's

137 representation of Madison was raised at this October 1 2 14 meeting involving Ms. Hanson, Mr. DeVore and 3 Mr. Steiner? 4 MR. KRAVITZ: Say that again. 5 THE WITNESS: Are you --6 BY MR. GIUFFRA: 7 Do you have any understanding as to whether Mrs. Clinton's representation of Madison was raised 8 9 during the October 14, 1993 meeting? 10 I have no knowledge of that. 11 Now, there is a reference about three-quarters of the way down the first page of your 12 13 typewritten version of the notes, where it says "RLF" -- strike that. 14 15 "RLF answered questions, did reconstruction." what does that indicate to you? 16 That indicates to me that Bruce said that 17 the Rose Law Firm answered questions during the 18 campaign and did a reconstruction of Whitewater. 19 20 O Was it a reconstruction of Whitewater or a 21 reconstruction of the Rose Law Firm's representation 22 of Madison? 138 1 He is referring to the work I did. This has to do with the reconstruction of the Whitewater 2 3 investment. You never prepared a written analysis of 4 the work you did with regard to Whitewater? 5 Did I? No. There were some memos prepared 6 7 by Sue Kathy Jones setting out sort of what she had discovered from the real estate records. And 8 9 evidencing some conversations that she had had, but 10 did I, no. 11 0 Whatever happened to those memos? MR. ATKINS: Ultimately they were produced 12 13 to you. 14 BY MR. GIUFFRA: 15 So those memos are the memos that we've 0 16 received?

produced to everyone else who has asked.

MR. KRAVITZ: Bob, you and I are probably the only people in the world who haven't seen them.

campaign and produced to you-all, so Alden says.

Yes. I mean, they were delivered to the

MR. ATKINS: I might add, they have been

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139
            MR. GIUFFRA: Probably, so many documents
2
    to read.
3
            BY MR. GIUFFRA:
4
        Q Now, when Mr. Lindsey was providing this
5
    background, did he refer to any notes that he had in
6
    prior conversation with other people?
7
             All I remember him having were these copies
8
    of canceled checks, but it is possible he was
9
    referring to some sort of source document. I just
10
    don't recall. Bob.
11
             Do you know a man named Richard Mayes?
12
        A
             M-a-v-e-s?
13
        0
            Yes.
14
             I know a Richard Mays with a last name
15
    that's not spelled that way.
        O How is his name spelled?
16
17
        Α
             M-a-v-s.
18
             He is an African-American lawver from
19
    Little Rock?
20
        Α
             Yes.
21
        0
             Do you know whether Mr. Mays has -- do you
22
    have any knowledge of any meetings that Mr. Hubbell
                                                           140
 1
    had with Mr. Mays in 1993?
2
        Α
             I do not.
3
             Now there is a reference at the bottom of
4
    the first page of these typewritten notes which says
 5
    "Clinton had taken the deductions that WWDC had not
6
    taken tax advantage of $2500, not repaid government
7
    yet-promise." What does that refer to?
8
             It refers to what's talked about in
9
    shorthand as the Lyons report, and this is sort of a
10
    brief summary of what the Lyons report come up with.
11
             And was there discussion of the fact that
12
    the Clintons had obtained a tax advantage of $2500.
13
    that they needed to repay the government but had not
14
    done so?
15
        Α
             Bruce is reciting history here. The
16
    Clintons had promised at that point to, you know,
    whatever they had wrongfully, gotten, advantage --
17
18
    whatever they had wrongfully gotten they would pay
19
    back. And at this point in time, that promise was
20
    out there, but it hadn't been done yet. I don't
21
    think it had been calculated vet.
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This was a promise that was made during the

1992 campaign?

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21 22 A Yes, and I think subsequently as well.

Now the reference immediately above that to Beverly Bassett, what do you recall about the discussion of Beverly Bassett at the meeting?

Again, this is basically it right here.

Bruce is giving history, and it's basically that she had given authority for Madison to do both things. and Bruce is talking about, you know, the perception about Beverly Bassett.

That there was too much coziness between Beverly Bassett --

All that other stuff. Recently appointed Beverly Bassett as securities commissioner, and then brother Earl and strong supporter in allegations of too much coziness.

17 Did Mr. Lindsey indicate that he had spoken 18 to Ms. Bassett or Archie Schaffer at this meeting?

No. did he not.

20 O And do you know whether Mr. Lindsey 21 subsequently spoke to Ms. Bassett or Mr. Schaffer

about Madison Whitewater matters? 22

142

Α I do not know.

In providing the background summary, did Mr. Lindsey indicated he was the source of the information that he was providing to everyone at the meeting?

Not unless it is reflected in the notes. no. I mean, in fairness, nobody questioned or asked him about it.

As you know from the notes, Bob, in many cases he is talking about contacts from press and press reports.

But unless there is a reference to -- for example, on page 12531, the top of the page there is a reference to Jeff Gerth. So that would be an instance in which Mr. Lindsey made an express reference to a reporter.

Yes. Α

Throughout the rest of the background summary that he was providing he didn't say, well, this information comes from The New York Times, this information comes from The Washington Post, this information comes from The Arkansas Democrat?

1 A Sometimes he did, yes, and sometimes he 2 just said press.

Q But when he did so, you would attempt to write it down in the notes?

A I am sure I didn't get it all the time, but it is in here, right.

Q Now, the bottom of the page there is a reference to FBI issuing subpoenas. And then there is a reference "also the day that VF killed himself" and it says below that "factor could close." What do you recall about that at the meeting?

A Bruce was remarking upon the coincidence that the day that Vince killed himself there were allegations -- that it had been reported in the press at this time that the subpoena had been issued for the Hale records. And that this coincidence was a factor in a lot of press speculation and whatnot.

Q During this meeting, did you discuss the fact that Mr. Coleman contacted you in the summer of 1993?

A No, sir, I don't recall doing so.

Q Do you have any knowledge of the fact that

after this meeting on November 17, Mr. Eggleston obtained certain information from the Small Business Administration regarding David Hale?

A Seems like in a previous deposition, Bob, you guys showed me some transmittal letters back and forth with regard to information regarding Hale. But I don't -- I don't remember discussion of that, other than, I mean, I had never seen them before. Until you showed them to me, I had no knowledge that that had gone on.

Q On page 12535.

A You are going to have to help me here because on my copy --

Q Second page.

A -- some of the numbers were cut off. Go ahead.

Q Am I correct, this reflects what Mr. Lindsey was recounting for those assembled with regard to certain allegations that had been made about President Clinton; am I correct?

MR. KRAVITZ: You are referring to the entire page?

145 1 Q Let me see if I can focus you in. I 2 apologize. 3 MR. CASTELLITTO: No, no, speed it. MR. GIUFFRA: I am trying to. 4 5 BY MR. GIUFFRA: 6 Let's go to the top of the page, it says 7 "ask for records of Capital Services Management --SBIC." Can you tell me what that referred to? 8 A Well, the subpoena was requesting the 9 10 records of Capital Service Management, which was an 11 SBIC. 12 0 Then further down there is a reference 13 where it says "Clinton: Encourage loan to McDougal and JGT wife, CSM made loans to JGT." What does that 14 15 refer to? 16 Α Well, you can't deal with it on its own. 17 What this is talking about is, is what Hale was saying, trying to fend off or lessen the impact of 18 19 his indictment, it is what he was claiming. 20 Okay, there is a discussion where it says 21 III, it says "RTC referral W/R/T McDougal." What is 22 "W/R/T McDougal"? 146 1 Α "With regard to." 2 What discussion do you recall at the meeting about an RTC referral with regard to 3 4 McDougal? 5 Well, there are several instances in these 6 notes about a discussion of RTC referrals. And 7 primarily what I remember at this point is what's set 8 forth on the page here, that the referral -- there were four campaign checks: April of '85, "BC" is 9 Bill Clinton, "personally" that means that some of 10 11 the checks were written to Bill Clinton personally, I 12 think "campaign committee's" means that some others 13 were written to the campaign committee. Then three checks were written on Madison, all \$3000. Fourth 14 15 check written on McDougal, personally signed by Susan McDougal. 16 17 Did Mr. Lindsey indicate at this meeting the basis for the information that he conveyed to 18 19 those assembled with regard to this RTC referral?

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Came from the press.

came from the press?

Q And how do you know that this information

A Well, you have to go later on in the notes, I think it is 12534, we talk again about where it says "examiners McDougal Charles Peacock" and that reference there.

Q What about that reference leads you to believe that this information came from press accounts?

A If you look up in the middle of the page, it makes reference to "grand jury indicted Hale, press has continued grand jury investigation and talks about the RTC." And that's what these referrals are.

Q But you don't recall Mr. Lindsey discussing the fact that the information he was conveying, set forth on page 12530, which is the second page of your typewritten notes, came from the press?

A Yes, I do think that I said that this stuff here had come from press inquiries. And that he had -- if I remember correctly, he had undertaken to get these checks, copies of them, anyway.

Q And you recall him discussing that at the meeting?

A Which part?

Q The fact that he had obtained this information from the press.

A Yes.

1 2

MR. KRAVITZ: I think what Mr. Kennedy just said is much of the information came from press inquiries, and that Mr. Lindsey had then obtained the canceled checks; he didn't say where from, but I think that probably should be the next question.

MR. GIUFFRA: Where he obtained the checks?

MR. KRAVITZ: Right. BY MR. GIUFFRA:

Q Where did Mr. Lindsey say he obtained the checks?

A I don't know. I don't know where he got the checks from. I mean, I can guess, but I don't know.

Q Now, in your notes you have a reference to Les Patten. Then there is a discussion of David Hale.

A I think this is simply that somebody

started to talk about Les Patten and then somebody 1 2 raised a Hale question and we got back into Hale 3 again.

4 Now, what's typed on the page 12530 below 5 David Hale, is this what Hale alleges with regard to 6 Governor Clinton?

7 Yes, these were the allegations that Hale 8 was making.

And the reference to "shopping malls," Clinton says "do you know what bitch Susan did with the money sed." What does that refer to?

One of the allegations that Hale had made was that one of his contacts was Clinton -- one of his contacts with Clinton was at a shopping mall, where Clinton had come up to him and said, "do you know what that bitch Susan had done with the money," and "sed" is me saying "said," and it is shorthand for s-a-i-d. That's an allegation that Clinton had

18 said that, and it is just poor note taking on my 19 20 part.

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Turn to the next page, 12531. 0 22 MR. KRAVITZ: Can I ask a follow-up? The

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allegations on page S 12530 that you testified about were supposedly being made by David Hale. Am I correct that Mr. Lindsey was telling those assembled at the meeting that Mr. Gerth had told him that Hale was making these allegations?

THE WITNESS: Yes.

MR. KRAVITZ: So Mr. Lindsey reported he 7 8 knew this information from a reporter as opposed to 9 from any other source.

THE WITNESS: That's what he is saying, but there had been, like, other pressure points about this prior to this time.

BY MR. GIUFFRA:

Q Did you chime in and say you had spoken to Mr. Coleman and Mr. Coleman had indicated --

A I don't recall doing so. I mean, it is entirely possible, Bob, that Bruce could have said, you know, Coleman called Kennedy and I nodded or something like that. But I don't recall chiming in and saying Randy Coleman had called me about this. There was no need to. It had already been in the

21

press, Hale was indicted already. 22

151 1 MR. GIUFFRA: Let's take a break. 2 (Recess.) 3 BY MR. GIUFFRA: 4 In your handwritten notes you have written 5 in a number of lines, for example, on page -- one of 6 your notes 12517 and then on page 12519 there is 7 three lines. What is your practice with regard to 8 drawing lines when you take notes, to change the 9 subject? 10 Trying to get there. Usually trying to Α 11 indicate that we shifted to a subject matter that, as 12 the notes go on to indicate, this was not necessarily 13 an orderly discussion. 14 Is the discussion on top of page 12531 of the typed notes where it says, "Steve Smith filed for 15 BR, bought Bank of Kingston with McDougal, McDougal 16 17 in business with JGT-Madison JWF." What does that 18 discussion refer to? It is more background information. Steve 19 20 Smith is currently a law professor at the University 21 of Arkansas, and he was a partner with McDougal when 22 McDougal bought the Bank of Kingston. And the last 152 reference is that McDougal had done business with Jim 1 2 Guy Tucker and J. William Fulbright. That's what 3 "JWF" means -- was in some of Tucker's business 4 deals or Madison's business deals. 5 Do you recall how Mr. Smith's name came up? 0 6 Α Just in terms of bankruptcy. 7 Q Do you recall why it came up, the name? 8 No, I don't, other than as part of the A 9 background. 10 Was there any mention of the fact that he 11 was named in RTC criminal referrals? 12 Α 13 Was there any discussion of a Steven Smith 0 14 loan, with Capital Management Services, of \$65,000? 15 A No. 16 O Any discussion of McDougal Tucker Smith 17 Corporation? 18 It may be on the ownership thing that 19 Lyons, I think, circulated around, but I don't recall 20 any specific discussion of that.

Okay, now below that entry it says,

"McDougal: 'Powers of attorneys' not get info

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needed, get more involved -- wind down. Only lines
 2
    of communication through Sam Heuer. Arrange for 50
    percent interest Jim Blair, under line." What does
 3
 4
    that discussion refer to?
 5
            What I believe it refers to is that there
 6
    had been a Washington Times story about powers of
 7
    attorney, I believe, prior to this meeting. But what
 8
    the first total reference means is that the Clintons
 9
    get the information that was needed to make head or
10
    tails out of Whitewater. And that they had tried to
11
    get more involved so that they could wind it down or
12
    liquidate it. But they were having trouble with
13
    McDougal, opening lines of communication with Sam
14
    Heuer, and they were trying to arrange for sale of
15
    the interest, and Blair's name comes up.
16
        O Do you recall anything further about the
17
    fact that the only lines of communication to
18
    Mr. McDougal were through Sam Heuer?
19
             No. That's basically it.
20
            MR. GIUFFRA: Let me show you a document,
21
    let's mark it as Exhibit 1.
22
              (Kennedy Exhibit 1 identified.)
                                                           154
 1
            MR. GIUFFRA: We received this by fax from
 2
    Mr. Lyons's attorney.
 3
            BY MR. GIUFFRA:
 4
            Is this the document you were referring to
 5
    before?
 6
            MR. CASTELLITTO: Break for a second.
 7
            (Witness conferred with counsel.)
 8
            THE WITNESS: Okav.
 9
            BY MR. GIUFFRA:
10
        Q Was this the document that Mr. Lyons
11
    referred to during the course of this November 5
12
    meeting?
13
        A I believe that it's one of the documents
    that he was referring to.
14
15
        Q What were the other documents that
16
    Mr. Lyons was referring to?
17
            Well, I am not sure. This document --
18
    although it's got some stuff on it I have not seen
19
    before, but this document is sort of what he
20
    circulated around.
21
        Q At the meeting?
```

22

Α

Yes

155 1 0 He made a photocopy of it? 2 Do what? Α He made a photocopy of it? 3 O 4 I believe so, yes. Α 5 Do you recall what was purportedly 0 6 reflected in this document? 7 Well, it's sort of an organizational chart 8 tying entities back in to all the basic allegations surrounding "Whitewater." 9 10 Do you recall what the reference at the very top, where it says something "financial Seth 11 12 Ward," and I can't read the next --I think that next word is "airplane." I 13 14 think. But I am having as much trouble as you are, but I think that next word is "airplane." 15 It says "Madison Financial Seth Ward 16 17 airplane"? 18 I believe so. 19 Yes. I think you are right. 20 You mentioned before, this reference, 21 "McDougal: Powers of attorney," was from The 22 Washington Times. What is the basis of your memory 156 1 of the fact that this came from The Washington Times? 2 Because I just have a memory of things like 3 a big front page. They had -- I don't know if the word photocopy is correct, but they reproduced this 4 letter on Rose Firm letterhead on the front page and 5 6 it just stuck in my memory. 7 Have you seen the documents that the White 8 House released, as well as some press articles? It 9 was a package of materials that were released by the 10 White House at the same time your notes were 11 released. 12 A Yes, I got them from my lawyer, yes. 13 You reviewed those in advance of today's 14 deposition? 15 A I went through them once, yes. 16 And did you also obtain a copy of the 17 annotated version of your notes that the White House released that had a key on the left-hand margin to 18 19 the documents and press articles that the White House 20 released?

A Are you saying a key on the left-hand margin?

21

157 1 O I believe so. 2 MR. KRAVITZ: I actually think it was the 3 right-hand margin. BY MR. GIUFFRA: 4 5 Strike that. Yes, on the right-hand 6 margin. 7 This one (indicating) yes, I also got that 8 from my counsel. 9 MR. GIUFFRA: Off the record. (Discussion off the record.) 10 BY MR. GIUFFRA: 11 12 O And you've reviewed the key and the documents? 13 14 A I have not reviewed the key. I have not 15 tried to tie the documents back into the key. But I didn't go through the document, but I did go through 16 17 the document package. 18 O The bottom of page 42531 where it says "Blair could have knowledge, could be source of 19 money to allow McD to purchase stock." What does 20 21 that refer to? 22 A That Blair could have knowledge about the 158 transfer of the sale of the Clintons' stock to 1 McDougal and that he could have been the source of 2 3 the money for McDougal to buy that stock. 4 Who disclosed this information at the 5 meeting of November 5, 1993? 6 I think this is Bruce, that he is 7 speculating. 8 0 Is Bruce speculating or stating fact? 9 Α Speculating. MR. KRAVITZ: I think the use of the word 10 "could" is consistent with that. 11 BY MR. GIUFFRA: 12 13 If you could, just immediately above the reference to Mr. Blair it says 3/4 times and then it 14 says "Heuer, Blair contact Heuer, have one involved 15 with WF to try to arrange sale." And I guess it also 16 17 says "2-3/1992." What does this indicate to you? 18 A Well --19 And please refer to your handwritten 20 notes. 21 The handwritten notes are better because I

couldn't type this in a way that made sense.

1039 159 MR. KRAVITZ: What page in the handwritten 1 2 notes? 3 MR. GIUFFRA: 12520. 4 THE WITNESS: 12520. 5 What I recall that this meant is that 6 they -- that there had been three to four contacts. 7 through Heuer, to try to effect a resolution of McDougal/Clinton ownership of Whitewater. 8 9 BY MR. GIUFFRA: And that was between Blair and Heuer or 10 11 between Foster and Heuer? 12 Unknown. I don't recall exactly who was supposed to have made these contacts. The reference 13 underneath it to 2-3/92 means February-March 1992. 14 there was another attempt. Oh, you have one 15 attempt. Then "Blair contact Heuer involved with 16 Vince Foster to try to arrange sales." I don't know 17 about the three to four times reference, but I 18 19 believe the one attempt refers to the Blair contact 20 in '92. 21 I would like to show you a document bearing 0 Bates numbers DEK 004360 through 4362. This is a 22 160 memorandum to Whitewater Development Corporation file 1 2 from Vincent Foster, and it is dated December 30, 1992. Have you ever seen that before? 3 The first time I saw this was in the 4 5 document package I received from my counsel, but I 6 have seen it before. 7 You had seen it previous to that? No. That's the first time I have seen it. 8 9 I have seen it previous to today, but that's the 10 first time. 11 Q Do you recall any discussion of this 12. memorandum at the November 5 meeting? 13 No. Α 14 Now, the committee has received a copy of this memo from the Rose Law Firm indicating that it 15 was retrieved and printed on November 8, 1993,.. 16 17 Do you have any knowledge with regard to 18 the retrieval of this document.

MR. KRAVITZ: Say that again.

of this document indicating it was retrieved and

MR. GIUFFRA: We received another version

THE WITNESS: Say what?

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161 printed on November 8, 1993, and Alden can testify. MR. ATKINS: That's correct.

THE WITNESS: Will you restate your 3 question? Are you saying do I now have knowledge of 4 5

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BY MR. GIUFFRA:

The committee received a copy from the Rose Law Firm of this memorandum indicating someone printed it off a computer file on November 8, 1993 three days after this meeting. Do you know anything about the process by which this memorandum was

retrieved from the Rose Law Firm file? 12

13 A No

14 Do you recall a discussion of having to 15 retrieve this memo at the November 5 meeting?

A No.

17 Q Do you know who at the White House or 18 anywhere else might have taken steps to retrieve this 19 memo on October 8, 1993?

20 No. Α

MR. ATKINS: Would you read that question

22 back, please.

162

(The reporter read the record as requested.) 1 2 MR. GIUFFRA: It should be November 8.

MR. ATKINS: I just object because you are

assuming facts not in evidence to the extent that you are suggesting that someone from the White House had something to do with printing that document out.

MR. KRAVITZ: Object to the entire investigation on that basis.

BY MR. GIUFFRA:

Do you know whether anyone at the Rose Law Firm took any steps on November 8, 1993 to print out 12 that memo?

> No Α

Turn to page 12520 of the handwritten 0

15 notes.

16 MR. GIUFFRA: Could we just hold on for a second. This will just take a second. 17 18

(Discussion off the record.)

BY MR. GIUFFRA:

On page 12520 it says, "nominal and respectable plus out of" I think it looks like "thin air"?

163 1 Α It is actually "out of the air." 2 0 What does that refer to? 3 It is a reference to the purchase price for 4 the stock when McDougal bought it from the Clintons. 5 Now below that reference there is a 6 reference to Jim Hamilton, Web Hubbell, Jim Blair, 7 Loretta Lynch, Susan Thomases, Charles James, I believe J-a-m-e-s. Why are those names listed in 8 9 your notes? 10 Just a recitation of people that, you know, might have knowledge about Whitewater. 11 Then it says, a little further down "Betsey 12 Wright/Hubbell docs." Then it says "return docs to 13 Dave Kendall." What does that refer to? 14 15 This refers to the Whitewater documents. 16 Whitewater records, that had gone from the campaign 17 to Betsey Wright and then to Hubbell. Now, were these the Whitewater documents 18 19 that had been in your possession at one point? 20 21 Did this also include any Madison client 22 files of the Rose Law Firm? 164 1 No. What I thought we were talking about there is the Whitewater documents themselves. 2 3 MR. GIUFFRA: One moment. Off the record. 4 (Discussion off the record.) 5 BY MR. GIUFFRA: 6 So Mr. Kennedy, it would be your testimony 7 that the documents that are being returned to David 8 Kendall are the Whitewater documents that you 9 gathered during 1991 or received during 1991? Yes, it is a better way of putting it, not 10 11 that I gathered them, but that they were given to me. Those documents also would include any work 12 13 product that you would have prepared during 1991? Well, I can't -- I have no knowledge of my 14 15 own about what happened to those documents once they were delivered to the campaign, but if one assumes 16 17 that they were all integrated whole, yes, that's it. 18 There is a reference below that to 19 "corporate records not to McDougal," and I really can't read your handwriting, looks like "BEC" or 20

"BFC" and then it says "BW"?

That's a similar reference to the

- Whitewater records, the corporate records. They did not go to McDougal because Betsey Wright got them.

 Q That would be the same records you had in your possession in 1991?
- 5 A Yes.

11

17

6 Q Below that there is a reference "HRC/RLF -- 7 Loretta organized Charles James, accountant for

8 Whitewater." What does that refer to?

9 A I am talking about the same records, 10 Hillary delivers them to the Rose Law Firm, t

Hillary delivers them to the Rose Law Firm, they go to the campaign, presumably Loretta organizes them.

12 I don't know why the reference to Charles James is

right there, I simply don't recall as to why his name appears there. Could have been that somebody said,

who is this guy, Charles James. I just don't know.

16 But that's what the reference is to.

Q Then it says "public documents:

18 Recorded." What does that refer to?

19 A Well, the -- the questions that you've 20 asked me, HRC/RLF public docs, loan docs, sort of

21 outlining sources of information for Kendall.

Q There is a reference midway down, on page

166

- 1 12521, quote -- in here.
- 2 A Okay, sorry.
- Q I'm sorry, I apologize, too. It says "WW

4 because Sam Heuer-mistake"; what does that refer to?

A You have to look up above it. It refers to the \$300,000 loan to Susan McDougal used to purchase

7 lands in Pulaski County from International Paper.

8 And it is purchased in the name of Whitewater in

9 October of 1986, two months later transferred out of

10 Whitewater Development Company to Great Southern Land

11 Development Company. Sam Heuer is evidently saying

12 it is in Whitewater because it was a mistake that it

13 was in there.

14

15

16 17

18

Q Did Mr. Lindsey indicate the basis for his statement, what the meeting with regard to Mr. Heuer was saying about the International Paper transaction?

A No, he did not.

Q If I could direct your attention to page

19 12522, and there appears to be a switch in the 20 discussion, immediately above, that you are

discussing the Lyons report or what appears to be the

22 Lyons report.

168

1 When you say Pat McCarthy & Associates, 2 Denver, Colorado. 3 We are on 12522. 4 "Pat McCarthy & Associates, Denver, 5 Colorado," then it says "additional info, additional 6 schedule. Additional problems, long version." Do 7 you recall that? 8 Α Yes. 9 0 Do you recall what those additional 10 problems were? 11 No. I think it was simply that there were 12 two versions of the Lyons report, the long and a 13 short version. The long version had additional 14 information, had additional schedules, maybe outlined 15 additional problems. 16 Do you recall the discussion of what those 17 additional problems were? 18 Α No. 19 Then it appears the discussion switches to 20 RLF/Madison Guaranty retainer at 2000 per month; is 21 that correct? 22 Yes, that's what the notes indicate that we 1 start talking about, Madison. 2 And the Rose Firm representation of 3 Madison? 4 Α 5 Okay, now, it appears you crossed something 0 6 out in your notes where it says "34,000-WWDC to 7 Hillary." 8 What do you recall about that discussion at 9 the meeting, if any? 10 Well, as is so often the case when you ask 11 a question like that, you have to kind of take -- for 12 me to answer it, you have to take all of this as sort 13 of an integrated whole. 14 Q Okav. 15 We talked about Madison Guaranty, there was 16 a retainer of \$2000 a month. There was evidently --17 somebody said, wasn't there a \$34,000 check from 18 Whitewater to Hillary? And discussion basically 19 is -- no, that's not right. There is confusion about 20 that check, what everybody is talking about. They

must be addressing the Madison payments to the Rose

Law Firm on a retainer basis. And that's why I wrote

169 1 "\$34,000 WWDC to Hillary" and then struck it out, 2 because it was an erroneous reference. 3 0 What is the reference to "ann" to? 4 Annual retainer. "Ann" means annual. Α 5 Then it says "plus check drawn"? O 6 Α Okay. Let me, if I may. 7 Just take us through it. 0 8 No problem, but the plusses don't A necessarily mean plus. As you see, it is just me. 9 10 Just a way to denote something like a 11 bullet point or something? 12 I am indicating -- I could use asterisks, 13 sometimes dashes, sometimes plusses. 14 "Check drawn on WWC payable to HRC," what 15 does that refer to? 16 It refers to the discussion about this check. It says "check drawn on WWDC payable to HRC" 17 18 and I believe that reference is -- ties back into 19 what is struck through above. Then you come down and 20 it says "believe that it probably represents payments 21 of \$2000, number of months for 17 months," and over 22 on the side "Bernie believes confirmed." In other 170 1 words, somebody was saying wasn't there a check, 2 \$34,000 payable to Hillary, acknowledge somebody said 3 no, no, you must be talking about the retainer. Was there any evidence as of November 5, 4 5 1993 that the retainer had been paid directly to 6 Hillary? 7 No. No. Again, I just think that there's 8 confusion here, which is evidenced in the notes. Now there is a discussion in your 9 typewritten notes. It says, "Bernie plus believes 10 that it probably represents payment of \$2000, number 11 12 of months for 17 months." That's at page 12533. 13 Again this is me, not necessarily typing this for public consumption, but to look at that, you 14 15 have to look at this better. Because here -- I am on 16 page 1522, Bob, you can see the treatment of it in 17 the handwritten notes, which I just did a poor job typing but, for example, "Bernie believes confirmed" 18

20 0 Correct.

is off to the side.

19

21 That sort of thing.

22 MR. KRAVITZ: The typewritten version of

		171
1	that part on S 12533 is inaccurate in that sense?	
2	THE WITNESS: Well, yes. I mean, it's I	
3	believe that it probably incorporates all the words,	
4	but it there was no way that I could do brackets	
5	and stuff when I typed it up. So it is run together	
6	improperly.	
7	MR. KRAVITZ: It is two sentences mixed	
8	together.	
9	BY MR. GIUFFRA:	
10	Q The reference to "prob.," you don't know	
11	what that refers to?	
12	A Well, if you look again at the handwritten	
13	note, "believe that it probably represents payment of	
14	\$2000, number of months," "prob." means probably.	
15	Q Okay, understood. Further down, it says	
16	"issue and campaign arrow 86/regard to HRC." What	
17	does that refer to?	
18	A Well, there was an issue in the campaign.	
19	The McDougals had claimed that they had delivered all	
20	of the records of every kind of character to the	
21	Clintons.	
22_	Q These are the Whitewater records?	
		172
1	A Yes. And the Clintons have taken a	
2	position that that was hogwash, that all the records	
3	weren't delivered.	
4	Q What is the basis for the Clintons' belief	
5	that all the records had not been delivered?	
6	MR. KRAVITZ: Are you talking about what	
7	was discussed at the meeting as the basis?	
8	BY MR. GIUFFRA:	
10	Q We will ask both questions was there any	
	discussion at the meetings for the basis of the	
11 12	Clintons' belief that they'd not received all the Whitewater records from McDougal?	
13	A I don't recall such a discussion. Again,	
14	Bruce is reciting history here.	
15	Q Do you recall any do you have any	
16	understanding as to what the basis is of the	
17	Clintons' belief that they hadn't received all the	
18	Whitewater Development records from McDougal?	
19	A Sure. It is the they delivered	
20	Hillary gave me all that she had, and it was a mess,	
	as I as I've testified.	
21	as I as I've testified	

So you believe she believed there were more

		173
1	documents?	
2	A She believed that there was a high	
3	probability that there was more documents, yes.	
4	Q You never contacted McDougal to try to	
5	obtain more documents?	
6	A I did not.	
7	Q You have no understanding as to whether she	
8	attempted to contact McDougal to obtain more	
9	documents?	
0	A Not that I know of. That is not to say she	
1	did or she didn't. I don't know whether she did.	
2	Q There is a discussion below that one	
3	question where it says "'86, that the '86 campaign	
4	issuing campaign arrow '86 records to MRC"?	
5	A I don't recall specifically, Bob, but I	
6	think it is a reference to the sort of the	
7	conflicting allegations that in '86 the records were	
8	delivered.	
9	MR. KRAVITZ: I think what he is saying is	
0	that it was an issue in the 1992 campaign.	
1	THE WITNESS: Yes.	
2	MD VDAVITZ WILL I	
2	MR. KRAVITZ: Whether the records were	
4	MR. KRAVIIZ: Whether the records were	174
2 1	turned over in 1986.	174
		174
1	turned over in 1986.	174
1	turned over in 1986. THE WITNESS: That's right.	174
1 2 3	turned over in 1986. THE WITNESS: That's right. BY MR. GIUFFRA:	174
1 2 3 4	turned over in 1986. THE WITNESS: That's right. BY MR. GIUFFRA: Q So the claim was that in the end of '86,	174
1 2 3 4 5	turned over in 1986. THE WITNESS: That's right. BY MR. GIUFFRA: Q So the claim was that in the end of '86, the Clintons had asked for these Whitewater records,	174
11 22 33 44 55 66 77 88	turned over in 1986. THE WITNESS: That's right. BY MR. GIUFFRA: Q So the claim was that in the end of '86, the Clintons had asked for these Whitewater records, and McDougal claimed that, in '86, he gave them all	174
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1 1 2 3 4 5 6 7 8 8 9 0 1 1 2 3 4 5 6 7 8 8 7 8 8 8 8 7 8 8 8 7 8 8 8 8 8 7 8 8 8 8 7 8 8 7 8 8 8 8 7 8 8 8 7 8 8 7 8 8 8 8 7 8 8 7 8 8 8 7 8 8 8 7 8 8 8 7 8 8 8 7 8 8 8 7 8 8 7 8 8 8 7 8 8 7 8 8 7 8 8 8 7 8 8 7 8 8 7 8 8 7 8 8 7 8 8 7 8 7 8 8 7 8 7 8 7 8 7 8 7 8 8 7 7 8 7 8 7 7 8 8 7 8 8 7 8 7 8 7 8 7 8 7 8 7 8 7 8 7 8 8 7 8 7 8 8 7 8 7 8 7 8 7 8 8 7 8 7 8 8 7 8 7 8 7 8 7 8 7 8 7 8 8 7 8 8 7 8 7 8 7 8 7 8 8 7 8 7 8 8 7 8 8 7 8 8 7 8 8 7 8 7 8 8 7 8 8 7 8 8 8 7 8 7 8 8 7 8 7 8 7 8 8 7 8 8 7 8 8 7 8 8 7 8 8 7 8 8 7 8 8 7 8 8 8 8 7 8 8 7 8 8 8 7 8 8 7 8 8 8 8 8 8 7 8 8 8 8 8 8 8 8 7 8	turned over in 1986. THE WITNESS: That's right. BY MR. GIUFFRA: Q So the claim was that in the end of '86, the Clintons had asked for these Whitewater records, and McDougal claimed that, in '86, he gave them all to Mrs. Clinton? A I believe that's correct. Q Then it says "RLF-campaign," then it says "Jim Lyons and Loretta Lynch." What is that discussion about? A Again, we are talking about the records again. And you know, during the campaign, the Rose Law Firm had them for a while, and then they went to the campaign. And Jim Lyons and Loretta Lynch, I can't testify of independent knowledge exactly what they did, but they were sort of point people on this issue for the campaign.	174
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Not Rose Law Firm files relating to

21

22

Yes.

Α

Q

175 1 Madison? 2 A No. 3 0 So this entire discussion is no 4 discussion -- strike that. 5 During this entire discussion up to this 6 point, there is no discussion of Rose Law Firm client 7 files relating to Madison? 8 That's correct. Α 9 Then below that it says "Betsey Wright had O 10 those records." Took them home? 11 Α Took them home. 12 Below that it looks likes it says "Betsey 0 13 Wright." Again, it says "WH retrieved-records from BW." 14 15 Α Yes. Is that "Web Hubbell retrieved"? 16 0 17 Yes, "Web Hubbell retrieved records from 18 Betsey Wright." 19 Then it says "been at WH arrow sent files 20 related to Whitewater"? Right. The records had been at Web 21 22 Hubbell's. He had been sent files related to 176 1 Whitewater. 2 Then it says "make a more complete 3 reconstruction." What does that mean? Well, it is a -- it is sort of a Kendall 4 5 task, that was sort of the consensus in the room that 6 they needed to make a more complete reconstruction to 7 the extent they were able. 8 Next page of the handwritten notes which is 12523. It says "Charles James-subpoenaed W/SBIC 9 matter." What do you recall about that discussion at 10 11 the meeting on November 5, 1993? 12 Just what's here, that we were talking about Hale again, and it is saying that Charles 13 14 James, at one time an accountant for Whitewater, was 15 subpoenaed with regard to the SBIC matter which is Hale. And somehow that related dollars going into 16 Whitewater which, I guess, is the Hale allegations. 17 18 Q Do you recall who is doing the discussion 19 during this portion of the meeting?

I think it is still primarily Bruce.

statement that Mr. James had been subpoenaed in

And did he indicate the basis for his

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connection with an SBIC matter?
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I think he was referring, again, to the press. But I don't recall specifically if he said that outright or not. I believe he is talking about the press. Because of the reference to the press below.

I would like to show you the annotated copy 0 we obtained from the -- or the White House made available to the press. There is an annotation on the right-hand side indicating that this comes from a news service or other document.

12 It is still your testimony that you think 13 this was based on some press account?

I believe so, yes. I don't recall necessarily whether he said that or not. But that's what I believe.

17 Okay. Then it says "GJ indicted Hale --0 18 press says that GJ continue investigation." Who is 19 GJ?

20 Α Grand jury.

21 Okay. Here you have a reference to the 22 press where he is actually making reference to the

178

press, but whenever he mentioned press, you -- did you to the best of your effort try to write down 3 "press"? 4

MR. KRAVITZ: He already answered that question. Sometimes he did and sometimes he didn't.

6 THE WITNESS: I am sure I didn't get them 7 all. I am absolutely certain I didn't get them all, 8 but I wrote them down sometimes.

BY MR. GIUFFRA:

Q The next entry is "RTC people trying to get 10 11 BC and JGT." What does that refer to?

That refers to people in the RTC trying to get Bill Clinton and Jim Guy Tucker.

14 Did anyone indicate the basis for the belief that people at the RTC were trying to get BC 15 and JGT? 16

There was a reference immediately below A that to the story of a referral by RTC of JGT, Jim Guy Tucker, Chuck Banks rejected.

Was there any other discussion of how RTC 20 21 people were trying to get BC and JGT that you can 22 recall at this meeting?

```
A No. not specifics other than the fact that
 1
 2
    there were these -- there were press articles out
    there indicating that there were people in the RTC
 3
 4
    that were trying to get them.
        O Now the next entry, it says "vacuum Rose
 5
 6
    Law files." What does that entry indicate to you?
 7
            MR. CASTELLITTO: I object to that as a
 8
    characterization of the entry. Go ahead.
            MR. GIUFFRA: Before we go further, how am
 9
10
    I characterizing the entry?
            MR. CASTELLITTO: You read it as if it were
11
12
    a single phrase, "vacuum Rose Law files."
13
            BY MR. GIUFFRA:
14
             Okay, as you sit here today, do you recall
15
    this portion of the meeting?
            Yes. Sure do.
16
17
        0
             And do you recall it, say, reasonably well,
    quite well, vaguely?
18
19
             No, I recall it pretty well.
        Α
20
        O
             What do you recall this reference.
21
    "vacuum," then it has "Rose Law files," means?
22
             It is not a complete sentence, although
                                                            180
 1
    everybody and their dog tries to make it one.
2
            Okay, it is not a complete sentence.
    "Vacuum" stands by itself. "Rose Law files" stands
 3
    by themselves. "Whitewater docs" stand by
4
 5
    themselves, et cetera.
 6
             Then it says "docs"?
        Q
 7
        Α
             Right.
8
        0
             That's separate from WWDC; right?
9
        Α
             No, it probably refers to "WWDC docs."
10
        Q
             Then it has "/subpoena"?
11
        Α
12
        0
             What do you recall about this discussion at
13
    the meeting?
14
             There was a general statement that we were
15
    dealing with a vacuum, insofar as Whitewater was
    relating -- insofar as Whitewater was concerned. And
16
    of course I knew, that in my own personal knowledge,
17
18
    that the records were horrendous. Okav.
19
             Now this reference where it says "Rose Law
```

files," again, this is just to the Whitewater files

that were at Rose? That's correct. 22

20

1 There is no reference -- there was no 2 discussion, during this portion of the meeting, of Rose client filings relating to Madison? 3 4

A That is correct.

5 O Was interest an expectation that there would be a subpoena for Whitewater Development 6 documents?

A No, there was no expectation that -- just a sort of a general discussion that -- no expectation that if one came that stuff that had been once at the Rose Law Firm would no longer be there.

12 Okay, immediately below that it says 13 documents, quote documents arrow never -- why don't 14 you read that next.

It says "asterisk documents," with an 15 16 arrow, says "never know go out" and the word below that in typewritten version is "quietly?" It is 17 18

actually "quality."

And there is something crossed out to the 19 left. What was that? 20

21 I can't tell you. I don't know.

22 0 Have you looked at the original of these

182

1 notes?

2

3

4

5

8

7

8

9

10 11

> You bet. A

Can you tell from the original of these notes what this is in the crossed-out version?

Why do you believe it is "quality," not 6 0 7 "quietly"?

As the typed version indicates, when I 9 put -- when I did this originally, I never knew that anybody other than my counsel would see it. And so I 10 produced it without an enormous amount of effort as 11 12 quickly as I could, but as accurately as I could at 13 the time. But I indicated on the typed version, I wasn't sure if it was "quietly" or another word. My 14 good friends in the press always dropped my question 15

16 mark, but that's what they do. 17

When there became this focus of attention 18 on these notes, I picked up a magnifying glass and I believe that word is actually "quality." Which 19 20 comports also with what we are talking about here,

21 which is the vacuum -- information vacuum that people

22 would be surrounded by, dealing with Whitewater.

Q Now, the reference immediately above quality "documents-never know go out," what does that mean?

A It is what I talked to you about earlier. At this meeting, and still to this day, there is sort of a mystery around how those documents got from the Rose Firm to the campaign. I didn't take them, Sue Kathy didn't take them, I can't tell you today who physically picked up the records and delivered them to the campaign. And that's what that reference is

Q Why don't you, just in your own words now, go through the best of your recollection what you recall occurred at the meeting with regard to these three lines?

A Didn't I just do that?

1 2

Q Just one more time. I apologize.

MR. ATKINS: The three lines we are referring to are "vacuum" to the word "quality."

BY MR. GIUFFRA:

Q The reason I want you to do that is, actually, I interrupted you. I wanted to have on the

record what your best recollection is.

A Okay. I am -- what I am going to do is I

am going to state for the record that my best recollection is what I had said previously. But I will try to do it all as an integrated whole, but my best recollection is how I responded earlier.

"Vacuum" stands by itself. It is not, I repeat not, with a capital N, a complete sentence. It talks about an information vacuum that, if you tried to speak knowledgeably about Whitewater, that's what you were going to deal with.

That the Rose Law Firm files, Whitewater documents are gone. If the subpoena came in, they were once there, they are gone now.

That no one in the room, including myself, can say how they had been delivered to the campaign. And, as I say, I had -- when I had typed it up, I thought the word might have been "quietly," but I put a question mark there. I have gone back and looked at it with a magnifying glass. I believe it is actually "quality," which refers to the fact that the records were in a shambles. They were incomplete,

```
185
    almost worthless.
 1
             The use of the word "vacuum," was that
2
 3
    Mr. Lindsey?
 4
             Probably so. But I can't tell you for
        Α
 5
    sure.
 6
             Is this entire discussion still
 7
    Mr. Lindsey?
 8
        Α
             Most of it is. I mean, as the notes
9
    indicate, there is a lot of questions being asked,
10
    and there's some discussion.
11
             With regard to the subpoena, what was the
    basis for a belief that there might be a subpoena for
12
13
    Whitewater Development Corporation documents?
14
             I don't think that there was any.
15
    necessarily any expectation of a subpoena, although
16
    reasonable people could assume, if the investigations
17
    continued, they would be coming. And there was a
18
    crescendo as I previously said.
19
            But, again, it ties back into the fact that
20
    I said there was an information vacuum.
21
             And the reference to quality, to the best
    of your recollection was just the quality of the
22
                                                            186
 1
     files maintained at Rose with regard to Whitewater?
 2
             Whitewater.
 3
             MR. KRAVITZ: May I ask one question?
 4
            MR. GIUFFRA: Sure.
 5
            MR. KRAVITZ: Mr. Kennedy, was there any
 6
    discussion at the November 5, 1993 meeting of any
 7
     efforts that either had already been made or that
 8
     would be made in the future to make Rose Law Firm
 9
     files or Whitewater documents unavailable to
10
     investigators?
11
             THE WITNESS: Absolutely not.
12
             BY MR. GIUFFRA:
13
             Below this discussion of "vacuum" it says
     "Susan McDougal called McDougal account at
14
     Madison-two different checks, IP filed partial
15
     releases of the mortgage." What does that refer to?
16
17
              Well, what it -- what it refers to, I
18
     think, is we were bouncing a little bit -- the
     meeting is bouncing around. But somehow it ties back
19
20
     into the International Paper transaction. The
21
     McDougals had made payments, partial payments on the
```

International Paper mortgage which had resulted in

1 partial releases. That's basically it.

4 5

Q What is the reference to two different checks?

A I can only -- I can't shed much light on it other than I just did. I think they are talking about two different checks which come up with partial payment on the International Paper Company mortgage, which I think was owed by Whitewater, although don't hold me to that.

Q Now the reference below that, to "examiners-McDougal," what does that refer to?

A I think it refers again to -- the examiners raising questions about the International Paper Company transaction. But I can't be certain about that. It might refer to the discussion below about the campaign checks. I just don't know.

Q Now immediately below -- strike that.
Was there any discussion at the meeting of the removal of Jim McDougal from Madison?

A No, I don't think so. I don't recall any discussion about the removal of Jim McDougal from Madison.

Q Then we have a discussion that starts "Charles Peacock-proceeds went from Charles for Clinton campaign-'85 made a donation? 3000- \$12,000 asterisk, could all come from Charles Peacock loan --dollar sign, siphoned off from the loan. After that Charles Peacock (C. Peacock) 1500 per election-\$3000 primary and in general." What is this discussion?

A It refers to the previous portion of the notes that refers to the campaign checks written in '85, which talked about earlier in the notes -- I am thumbing back through here trying to find -- it would be in the handwritten version. It would be 12518, on that page. And just one second.

If you -- I am bouncing around on you. If you look at 12532 there is no reference to -- again, I am on the typed version about the middle of the page, there is an asterisk. It says "knowledge of referral Gerth and Isikoff. Referrals include campaign checks" and that's what we have now gone back to, that.

Q Now what do you recall about this discussion of these campaign checks on page 12534?

Basically, that Bruce is outlining, sort of, the allegations, that the press was reporting wherein the referrals -- that there was a loan made to a guy named Charles Peacock, that loan may have been a way of funneling funds to the campaign. And I think Ken peacock might be Charles Peacock's son. It is \$1500 per election, 3000 total. There were four checks. He's just sort of outlining allegations.

Q Okay. Now, the top of page 12524, the discussion that looks like you are changing subjects now. I think it says "Betsey Wright-Clinton took out a loan, not disclosed today-the last report never had a match with BET. Receipts and expenditures." Do you recall what this discussion is about?

Bob -- I hate to say this, but this is the only section of the notes where I can't help very much. I can tell you what the words say, and I evidently did not follow what the hell -- what this was about, because my memory is not refreshed by the notes. I cannot shed much light on what this means. I can tell you what the word says. It is something about something on the financial disclosure forms.

With an end result that the -- that the forms were okay, Betsey says "didn't have to disclose the loans." But I am going tell you right now, I cannot shed much light on what this means because I must not have understood it when I wrote it down. And I am very sorry about that.

Q Immediately above the line it says "\$300,000, what application from?"

A Yes the word is either "from" or "form." Again, looking at it with a magnifying glass, I think the word is probably "form," but as I -- I'll be the first to admit, when I wrote it with my typed version I put "from" with a question mark because I wasn't sure what the word was.

Q You don't know what this refers to?

A No, I don't. The only way \$300,000 appears is supposedly that's one of the loans. I mean, supposedly that amount was used to purchase the International Paper Company. And I don't know what this means, this, sort of, this whole section here is beyond me.

MR. KRAVITZ: Can we take five.

```
191
 1
            MR. GIUFFRA: Sure.
 2
            (Recess.)
 3
            BY MR GILIFFRA:
 4
           Let's go to the bottom of page 12524.
 5
    "Could be that JGT is target of RTC referral"; do
6
    you know what that refers to?
7
        A I think it's -- as we talked about, that
8
    there is an earlier statement in here, the people in
    the RTC were out to get JGT, and that this is just a
9
10
    follow-up to that discussion. And, again, we are
    bouncing around a little bit in terms of subject.
11
    But that's -- I mean, I can't tell you more specific
12
13
    than that.
14
             Can you tell me about the entry immediately
15
    above that where it says "Hale had property"?
             Well, this is -- this is a discussion of
16
    the shenanigans that Hale had pulled with regard to
17
    property, and putting dollars in his SBIC. And then
18
19
    some of the money went to Susan McDougal, and I mean
20
    this as background with regard to, sort of, the Hale
    stuff.
21
22
             Now it says, below that JGT it says
                                                            192
 1
    "1986-new statement of purpose Flowerwood collateral
2
    as a make." Do you know what that refers to?
3
            No, I'm sorry. I don't. I couldn't
    remember what Flowerwood was until I got the document
4
5
    package. And Flowerwood is a McDougal entity
6
    referred to in the Lyons report. The Flowerwood
7
    Farms, Inc., but I can't tell -- help you here very
    much. We were -- these notes were bouncing around a
8
9
    lot. I cannot shed -- although I would deeply like
    to, what the statement of purpose refers to or the
10
11
    Flowerwood. I mean, I just don't know.
             And then it says "repay it arrow promise to
12
    repay it HRC wait to after the election $47,061"?
13
14
             No. 4000.
        Α
             4761.33?
15
        O
16
             Okay. This is a reference again to a
17
    repayment of the -- sort of whatever the tax
18
    advantages were arising from their ownership, and all
```

misapplied. Q Was there any discussion of a missing Hale

the mistakes that were made because the records were

incomplete. And things were misfiled and

19

20

21

193 document that might implicate Governor Clinton in any 1 wrongdoing at the meeting? 2 3 No. I don't recall such. I mean, the only 4 stuff I recall, which is set forth in the other page, 5 which is all these allegations he made about 6 conversations. 7 O Then it says -- again, this part of the discussion, do you recall whether that is Mr. Lindsey 8 9 reading the discussion, 12525 immediately below 10 4761.33? 11 No. I think -- as I said, immediately above 12 that we were bouncing around a little bit within the 13 discussion. But I think at this point Jim Lyons has 14 sort of taken over the labor organizer. 15 Do you recall approximately when he might have taken over the labor? 16 17 Α Right about here. 18 Right about here? O 19 Α Yes. 20 Starting to say 1978? 0 Yes. I mean, I can't tell you that with 21 22 specificity, but there is a little bit of -- sort of, 194 we have gone back to backgrounds here with this 1978 1 2 reference. And this is when I think Jim sort of 3 pitched in and had given a very nuts and bolts 4 presentation about Whitewater. Q Now, then it says "1978 AG plus HRC new 5 lawyer at RLF." What does that refer to? 6 In 1978, Clinton was Attorney General when 7 Hillary had just come to the firm. 8 "McD had just approached Clinton few things 9 could be buy/subdivide/sell lots and get rich. No 10 cash-deal, 100 percent leverage." What do you recall 11 12 about this part of the discussion? 13 Again, it is background. I think it is Lyons talking, and he is just basically saying that 14 McDougal may have approached Clinton and made a pitch 15 16 to him. And this discussion of "few things," what 17 0 18 does that refer to? I can't -- I can't give you more content 19

that McDougal may have approached Clinton and said that as governor there are a few things that you can

other than sort of what the notes say. Speculate

do, a few investments you can make, something like that. You know, let me pitch something to you.

Q Was there any discussion about why
 Mr. McDougal might have approached then Attorney
 General Clinton?

A No. I don't recall any. Other than they knew each other, were friends. I don't recall any such discussion.

Q Now where it says "buy/subdivide/sell lots and get rich," that's sort of self-explanatory. Then it says "no cash-deal 100 percent leverage"; what does that refer to?

A Again, just what the words say. That again we are -- he is speculating here, Clinton may have approached -- McDougal may have approached Clinton, pitched him, offered him a pie-in-the-sky deal.

Q And this reference to "no cash-deal, 100 percent leverage," what does that refer to?

A My recollection is that it talks about, again, the pitch that McDougal could have made, that you know, I can put you in something and we can use 100 percent leverage.

196

Q Now, when Mr. Lyons is recounting the pitch that Mr. McDougal may have made to Governor Clinton or Attorney General -- excuse me, was he basing his presentation on conversations he had had with either of the Clintons?

A I can't answer that. I don't know.

7 Q You don't know what the basis was for 8 Mr. Lyons's statement "no cash-deal, 100 percent

9 leverage"?

6 7

8

9

10 11

12 13

14 15

16

17

18

1

2

3

4

6

10

13

14

17

18

19

20

21

A No.

11 Q You don't know what the basis was for that 12 statement?

A The answer is no, I don't know for sure.

MR. KRAVITZ: I am not sure that

Mr. Kennedy has testified that Mr. Lyons made thestatement that is indicated in the quotes.

BY MR. GIUFFRA:

Q Is that your belief, that he made the statement, or you don't know?

A It is around in here somewhere that I believe that Mr. Lyons is sort of going to take over

22 the discussion because we are getting into a sort of

197 1 more technical or background driven, you know, but 2 I -- I can tell you that, this is sort of speculation 3 here. How can you -- what's the basis for your 4 5 statement that you can tell me it is speculation? The use of the word "may." Clinton --6 7 "McDougal may have approached Clinton." The "may" then refers to everything that 8 9 comes after that? 10 That's what I believe happened, yes. That 11 he -- sort of speculating about how Clinton could have gotten into this thing. 12 O Then at the top -- remainder of the page is 13 the history of the Whitewater transaction, what 14 happened. And I apologize for not asking you 15 16 questions on that, I am trying to speed this up. 17 Here here. Α Now was the plan -- it says "subdivided 18 0 lots sold purchase or contract"? 19 20 "Purchase on contract." Α 21 O "Purchase on contract, paid out over 22 time -- revenue stream would service lots and pay 198 debt": is that right? 1 2 A Yes. Then it says, "1979 WWDC," is that "formed" 3 then "assets" and I can't read the next word? 4 5 Well, it is "XFD," which is my shorthand for transferred. 6 7 "Assets transferred-mortgage and debt kept 8 personally"? 9 Right. Α Meaning that the debt, the original debt 10 11 that was used to buy the land was kept personally by the McDougals and the Clintons? 12 13 Yes, it was incurred personally and 14 retained. 15 That's the \$182,000 loan through the Citizens Bank of Flippin that's referred to above 16 17 that? 18 I believe so and the \$20,000 Union National 19 Bank loan.

interstate land sale prospectus"? I think the word is "properties." 22

There is a reference further down to "HUD

20

199 1 "Properties." O 2 Again, it could be "prospectus." And when 3 I typed it up, I wrote "prospectus," you are correct. Its could be "properties," but anyway, it 4 5 is either prospectus or properties. Is that "HUD" Housing and Urban 6 7 Development? 8 Yes Α 9 Do you recall this discussion during the 10 meeting? 11 No. Other than Lyons may have said that --12 that these lots were subject to Interstate Land Act. I don't remember specifics about this other than 13 14 what's here. 15 Q Why do you believe Lyons may have said something about how these sales were subject to the 16 17 HUD Interstate Land Act? 18 Because I wrote it. Counsel, I hate to be pedantic. I think that's what he said they may have 19 been or they were or something. 20 Do you recall what the significance would 21 22 be if those sales were subject to the HUD Interstate 200 1 Land Sales Act? 2 A No, I am not familiar with that area of the 3 law, Bob. I have not practiced fooling with that 4 stuff. I just don't know. 5 Q I would like some help trying to read some 6 of this. 7 Α I can understand. 8 MR. KRAVITZ: You mean more even than 9 what's in the typewritten version? THE WITNESS: To the extent I can help you, 10 11 turn me loose. 12 BY MR. GIUFFRA: 13 If you could start at the top of 12526. 14 Okay. 15 MR. KRAVITZ: Bob, is there any part of this where you think the typewritten version is 16 inaccurate? The witness has already done a 17 typewritten version. 18 19 BY MR. GIUFFRA: That's what I am about to do. It says "HRC 20

McD loan from MBT." Do you know what MBT is?

Probably Madison Bank and Trust.

```
201
             And this is a discussion of the lot 13
1
2
    transaction?
3
        Α
             This reference to Helman Logan, do you know
4
        0
5
    what that refers to?
             Sure. This lot 13, was acquired by
6
7
    Hillary, they put a demonstration house on it and it
    was sold to a guy named Helman Logan who owned it for
8
    a while and then guit paying, foreclosed on, took
9
    bankruptcy, and got back -- Hillary got it back out
10
11
    of the bankruptcy.
             There is a discussion later on, too,
12
        0
    Pesbrook. Who is Pesbrook?
13
14
            Good question.
15
            It is actually -- and I didn't know this
    until I got the document -- it is actually Pembrooke,
16
    P-e-m-b-r-o-o-k-e. It is one of the McDougal
17
18
    entities referred to in the Lyons report. Pembrooke
     Manor, I think, is the full name of it.
19
20
            Let's go to the bottom where there is an
    asterisk. It goes "9000 McDougal," bottom of 12526,
21
     "asterisk 9000 McDougal arrow interest payment
22
                                                             202
 1
     question mark checking," is it "bank" or "blank"?
 2
              Blank
         Α
 3
             What does that refer to?
         0
             There was -- and I believe there was
 4
 5
     referred to in the line report -- there was a check
 6
     with the payee not filled in, written by Hillary, and
 7
     delivered to McDougal, and you have to refer to the
     Lyons report to all the intricacies of it. But it
 8
     was, again -- I cannot, without referring to that
 9
10
     document -- it was applied, but the Clintons thought
     it applied one way and it was treated another way and
11
     it was a big mess. And so, this is a discussion
12
13
     about that.
              In the version of this that's annotated by
14
     the White House, there is no indication that this
15
     discussion, beginning "9000 McDougal" and ending 1985
16
     on the next page, "1985 McDougal decides to get
17
     out -- deal with Wade," is based on the Lyons report.
18
              Where you are seeing "McDougal decides to
19
20
     get out"?
21
         0
              12527.
```

I'm sorry. You have confused me. We are

22

Α

203 1 talking about the \$9000? 2 Yes, from that entry to the next page, leading to "1985 McDougal decides to get out deal 3 with Wade." 4 5 Well --Α MR. ATKINS: The question is --6 7 BY MR. GIUFFRA: 8 No I just --Q I am trying to find where it is. "McDougal 9 decides to get out. Deal with Wade, 1985." I 10 thought you were talking about the \$9000. I'm not 11 sure what you are talking about now. 12 13 You indicated in your testimony that this comes from the Lyons report, in the version of this 14 that the White House released to the press, in which 15 they attempted to, and I take it your notes they 16 17 don't make a reference to the Lyons report. Would you like for me to show you in the 18 19 Lyons report where this \$9000 check is addressed. 20 You believe this is in the Lyons report, 21 this discussion of the \$9000 checks? 22 Not this discussion but a discussion of a 204 1 \$9000 check. I believe so. Q I think it may be the long report. 2 3 Off the record. 4 (Discussion off the record.) 5 BY MR. GIUFFRA: 6 This would be at the top of page DEK 7 004336, paragraph 4. 8 MR. KRAVITZ: Which is page 5 of the March 9 23rd, 1992 Lyons report. Just so the record is clear, that's the discussion of this \$9000 check that 10 Mr. Kennedy has in his notes on page S 12526. 11 12 BY MR. GIUFFRA: 13 There is a discussion, a reference on the next page, 123527, getting to the end, "lot subpoena 14 interest problem." Do you know what that refers to? 15 No. I mean, I am pretty sure it refers to 16 17 something in the Lyons report, something about the 18 treatment or the misapplication of the payment that

21 situation and this interest problem, I think relates 22 to that.

as you can see in the notes about this lot 13

the Clintons had tried to make. And the discussion.

19

Q And then there is a reference below that to "Chris Wade runs real estate office, Ozark Lands. He believes that a part other than no paper/no evidence-any ownership interest earning of some kind," do you recall that at all?

A Yes, this sort of is reference -- or sort of starts to set the stage for the airplane transaction, the Ozark Air transaction, where lots were sold in Whitewater for a purported assumption of mortgage and the -- and an airplane.

Q I apologize for this. Immediately above the Chris Wade reference there is a reference to a check for \$2744.65, president to Madison Bank. Is this the check that the President wrote for his mother's -- the mortgage on his mother's lakeside home that was misapplied to Whitewater?

A I can't answer that with specificity, but I think that's a different deal. But you may be right.

Q You don't know what this reference to 20,000 --

A No. There is an earlier reference on page 12526, and it talks about a second note at Madison

Bank, 2744.65, president to Madison Bank, expectingapplied to HRC loan, applied instead McDougal loan.

3 And you have better knowledge of this than I do, but

4 that may be the mortgage thing. But I -- I just

5 can't tell you that. All I can tell you is what

6 these notes say.

Q You don't recall anything more about the discussion?

A No.

Q On the next page, 12527 through to 28, it says, looks like on 23527 it says "reconstruction" -- "arrow reconstruction arrow Clinton not released until fall of 1992." And then it says -- looks like it says "Blair up-Chris Wade." What does that indicate to you.

A Just one second. I am trying to catch up on the typed version. Can you be a little more specific? I mean, you read some of these -- what specifically are you asking?

Q The discussion where it says

"reconstruction arrow \$11,000 arrow" and then it says "Clinton not released until fall of 1992, Blair

up-Chris Wade"; I think that's one entry. I could be
 wrong.
 A No. Again, the typed version is not

A No. Again, the typed version is not elegant insofar as it relates to the handwritten notes.

Okay, the -- it says, you have to go up a line, "airplane transferred in blank, sold for \$25,000, taken by McDougal as a commission," and then

9 there is just a word "not." Then it says

10 reconstruction and then it says \$11,000. Now, what I

11 think that means is, is that -- and this is one of

the crazy things about Whitewater, these lots are sold for \$25,000, sales proceeds don't go to

14 Whitewater, McDougal grabs them, takes them as a

15 condition -- it is not treated as sales proceeds.

MR. KRAVITZ: Commission.

THE WITNESS: McDougal takes it as a commission. When the reconstruction was done, I think the \$11,000 refers to the remaining balancing on the Citizens Bank of Flippin loan, I believe.

BY MR. GIUFFRA:

Q And the reference to Clinton not released

means that he had not been released because McDougal had taken the \$11,000 and not applied it to paying off a lien?

A Well, that the -- that McDougal had taken the \$25,000 and not delivered it to Whitewater, the corporation, but instead had kept it. And that when the -- the Lyons reconstruction -- the Lyons report was done, there was \$11,000 remaining balance on the mortgage. And then "Clinton not released until fall of 1992" means to me that he was not released from the sort of seminal mortgage, what he was personally liable on.

Q Okay. What do you know about the release of Clinton from the Bank of Flippin mortgage in the fall of 1992?

A Nothing other than this notation here.

Q Now, do you know whether Mr. Blair provided any funds to Mr. Wade to take over that mortgage?

A I do not.

Q The reference to "Blair up-Chris Wade,"

21 what does that mean? 22 A I am not sure

A I am not sure. I think it means that Blair

209 1 may have talked to Chris Wade about this. 2 Why do you believe that? 3 "Blair up-Chris Wade," I mean, that's the 4 notation in the notes. 5 Does that indicate to you Mr. Blair may 6 have provided some assistance to Mr. Wade? 7 No, it doesn't indicate that to me. 8 But you would agree that the reference is 0 definitely to Mr. Blair in some way? 9 10 Α Yes. 11 You don't recall anything more about the O 12 discussion of Mr. Blair and Chris Wade at the 13 meeting? No, other than that I can't recall the 14 15 specifics of it, but I believe that Lyons had said 16 that Blair had gone up and talked to Wade. Then there is a reference to "owe IRS." do 17 18 you know what that means, "owe IRS"? 19 I think it refers somehow to the notation 20 below, but I can't tell that you for sure. I am not 21 exactly sure what the "owe IRS," who owes it, exactly 22 what that means. 210 1 Q Now it is your testimony, you don't know 2 how the balance of Whitewater's allegation to the 3 Bank of Flippin was paid off in late 1992? 4 Α Do not know. 5 Below that it says, arrow -- excuse me, 6 "goes to GSLC." You don't know what that refers 7 to -- do you know what that refers to? 8 Well, I think GSLC is Great Southern Land 9 Company. And I don't know what the reference means. 10 I wish I could help you, Bob, but I am not sure. 11 These -- "owe IRS" "WWDC 32,000" and "goes to GSLC." 12 I am not sure what the references are to. 13 A little further down it says "First 14 Federal candidate disc form did not disclose BEC 15 because did not know existed." 16 Α Right. 17 What do you recall about that discussion? 0

"neither." "First Federal candidate disclosureform, did not disclose because did not know

it, the reference in the notes above it is "term as

governor, report as asset/liability." And it says

Well, it refers again to the sentence above

18

19

		211
1	existed."	
2	What I remember generally is that during	
3	the term of governor on the financial term of	
4	governor on the financial reports that Whitewater w	as
5	not listed either as an asset or a liability. And	
6	then someone did the First Federal candidate	
7	disclosure form based on the gubernatorial ones and	1
8	it flowed through improperly, because it was not	
9	listed on the gubernatorial forms.	
10	Q Were you aware of the creation of a	
11	Whitewater response team in late 1993 at the White	
12	House?	
13	A The creation of it?	
14	Q Yes.	
15	A I mean, I knew that such an animal	
16	existed. I don't think I knew precisely when it was	
17	formed.	
18	Q Were you a member of that team?	
19	A No.	
20	Q At the conclusion of your notes 12528, do	es
21	that reflect the end of the meeting or was there any	
22	further discussion you can recall at the meeting?	
		212
1	A No, I think that pretty much reflects the	
2		
	end of the meeting.	
3	end of the meeting. O The notes would encompass everything	
3	Q The notes would encompass everything	
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Do you have any understanding as to whether

213 1 Mr. Kendall spoke on later occasions with any of the 2 other participants in the November 5 meeting? 3 I have no knowledge of that. I mean, I don't know whether he did or he didn't. 4 You never discussed with Mr. Lindsey any 5 6 subsequent conversations Mr. Lindsey had with 7 Mr. Kendall? 8 Did 12 Α 9 0 Yes. I don't recall doing so. You know, I do --10 11 it is entirely likely that, you know, he may have 12 told me at some point that he had talked with Kendall. Wouldn't have surprised me in the least nor 13 14 would I have thought anything about it, but I don't 15 recall any specifics of that. 16 MR. KRAVITZ: Bob, you may not remember, it 17 was so long ago, but I think that question has already been asked, probably about seven hours ago. 18 19 MR. GIUFFRA: I have no further questions. MR. KRAVITZ: I have a few questions, sir. 20 21 Do you want to take a two-minute break first or do 22 you want to go ahead? 214 1 THE WITNESS: Let's go forward. 2 **EXAMINATION** 3 BY MR. KRAVITZ: 4 Mr. Kennedy, I just want to ask some 5 general questions that I think will get at some of the allegations that have been made before your 6 testimony here today as the basis for why the 7 committee felt it was so important to have access to 8 your notes of the November 5, 1993 meeting. 9 To your knowledge, did any of the White 10 House officials present at the meeting on November 5, 11 12 1993 transmit to Mr. Kendall any confidential 13 government information --14 Α 15 0 -- relating to investigations of the Madison or Whitewater matters? 16 17 No, not to my knowledge, no. Α To your knowledge, was all of the 18

information that was transmitted by Mr. Lindsey and

information that came either from press reports or

inquiries, or from nongovernmental sources such as

other White House officials at that meeting

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1 the Lyons report?

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A I had no reason -- when somebody sat across the table from me, Neal, I had no reason to say, how the hell do you know that, and so there was no kind of questions about that from anybody that I can recall.

And as far as I know, everything that came up at that meeting was from either press reports or from sources such as the Lyons reports. I don't recall anything that came from gubernatorial -- excuse me, governmental sources.

Q Just so the record is clear, you don't recall any information being transmitted, the source of which was federal government investigative sources?

A That's correct.

Q As you've reviewed your notes of the November 5, 1993 meeting, have you noticed any references in those notes to Jean Hanson or any of the other Treasury Department officials who may have transmitted information about an RTC investigation to any White House officials prior to November 5, 1993?

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A No.

Q Do your notes have -- make any reference to any meetings between Treasury and White House officials that occurred on September 29 or October 14, 1993?

A No.

7 Q To your knowledge, was any information 8 transmitted at either the September 29 or the October 9 14 White House-Treasury meeting transmitted by any of 10 the White House officials to Mr. Kendall at the 11 November 5, 1993 meeting?

A With the caveat, Neal, that I wasn't at either of the two previous meetings, and therefore don't know what went on there. As far as I know, there was none transmitted.

Q You certainly recall no reference at the November 5, 1993 meeting to any information that White House officials had received from Ms. Hanson or other Treasury officials relating to an RTC investigation of Madison; is that correct?

21 A That's correct.

Q At any time during the November 5, 1993

217 1 meeting, did Mr. Kendall or any of the other private 2 attorneys present ask any of the White House officials present at the meeting to use their 3 government positions to obtain confidential 4 5 government information relating to Whitewater. Madison, David Hale or Capital Management Services? 6 7 A No 8 Specifically, did Mr. Kendall or any of the 0 9 other private attorneys present ask Mr. Eggleston or any of the other White House attorneys present to 10 seek to obtain confidential information relating to 11 12 the SBA's investigation of Mr. Hale and Capital Management Services? 13 14 I recall no such conversation 15 At any time, including the November 5 16 meeting, but extending beyond that meeting, did Mr. Kendall or any of the other private lawyers who 17 attended the November 5th meeting -- strike that. 18 19 Let me start over. 20 You said that on November 5, Mr. Kendall 21 did not ask you or any of the other White House 22 lawyers present to seek to obtain confidential 218 1 government information? 2 That's correct. A 3 Did Mr. Kendall make a request to you, or 4 to your knowledge, to any other White House 5 officials, to seek to obtain confidential information at any other time to your knowledge? 6 7 No. 8 MR. KRAVITZ: That's all I have, thanks. 9 EXAMINATION 10 BY MR. GIUFFRA: Q Mr. Kennedy, you can't be certain there was 11 no transmission of confidential governmental 12 information at the November 5 meeting, can you? 13 No. that's a fair comment. I cannot be 14 certain of that. 15 16 Because you don't know the source of all 17 the information that was communicated at the November

indicate and my testimony has indicated, I think I 21 22 know the source of most of it. But I can't say for

A I can't say that I know the source of all of it. I think I know the source -- as the notes

5 meeting to the participants the meeting?

18 19

sure I know the source of every single scrap ofinformation at that meeting.

Q Plus you don't also know whether information that was contained in press accounts -- strike that. You don't know whether -- strike that.

You've testified that some of the information at this meeting came from reporters and press accounts; correct?

A Yes.

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Q You don't know whether some of that information also was obtained from governmental sources, right; the same information?

A The answer to your question is that, as I say, and as I had previously testified, I believe that most of this information, if not the vast majority of it came from either the Lyons report or press inquiries or published press articles or the newspaper -- or television, that sort of thing.

19 Q You don't know whether governmental 20 officials confirmed information that was contained in 21 press reports, and that that information was then

22 subsequently communicated at the November 5 meeting?

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MR. KRAVITZ: What information? The fact that government officials had confirmed information or the underlying information?

MR. GIUFFRA: I will rephrase the question. BY MR. GIUFFRA:

Q You don't know whether governmental officials had confirmed to persons at the meeting who were communicating information -- strike that.

All right, it is your testimony that some of the information at this meeting contained press accounts from reporters; right?

A Yes.

13 Q And you don't know whether all of the 14 information was from press accounts, reporters or the 15 Lyons report; right?

A I would rather say it this way: I cannot say I know the source of every scrap of information that was discussed at this meeting, because I don't.

Q Now, if information that was discussed at this meeting was given to the participants at the meeting, from both press accounts and from governmental sources, you don't know that fact;

right?

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Well, I think I just stand on what I said. I cannot say I know the source of everything. As I previously testified, the vast majority, the majority of the information that was talked about came from press sources as identified in the discussions and from the Lyons report which we had the author of sitting at the table.

You would agree that if information comes from both press accounts and from governmental sources, that the information that comes from governmental sources, if it is the same information that get confirmation from governmental sources, that's valuable information for somebody to know?

15 Bob, I have to say it depends on the facts 16 and circumstances.

17 And you don't know whether that occurred 18 here?

19 What occurred? I really am not trying to split hairs with you, but I don't follow you. 20

21 You don't know whether some of the 22 information that was contained in press accounts,

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1 okay, and that was reported at in meeting, was prior 2 to the meeting, confirmed to the person who was communicating the information at the meeting, by 3 governmental officials? 4

5 No, I can't say whether I know that to be 6 true one way or the other, no. 7

And you would agree that often press accounts are inaccurate?

Lots of times.

Whereas information you get from governmental sources tends to be more accurate?

Not necessarily. Not necessarily. And I think the key focus is on confidentiality.

MR. GIUFFRA: No further questions.

15 MR. KRAVITZ: Let me ask two follow-up 16 questions.

EXAMINATION

BY MR. KRAVITZ:

Mr. Kennedy, is it correct that at several 19 points during this meeting on November 5, 1993, 20 Mr. Lindsey identified the source of his information, 21

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as being press reports, press inquiries or other

		440
1	nongovernmental sources, such as the Lyons report; is	
2	that correct?	
3	A Yes.	
4	Q And is it correct that you have no	
5	recollection of Mr. Lindsey at any time citing a	
6	Treasury Department official, or an RTC official, as	
7	the source of information he was transmitting to	
8	Mr. Kendall at the November 5 meeting?	
9	A No one at that meeting identified such a	
0	source.	
1	MR. KRAVITZ: Thank you.	
2	MR. GIUFFRA: I have no further questions.	
3	Thank you very much for coming, Mr. Kennedy.	
4	(Whereupon, at 6:00 p.m., the deposition	
5	was concluded.)	
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7		-
8	WILLIAM H. KENNEDY, III	
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I, JOANNE LIVERANI, the officer before whom the foregoing deposition was taken, do hereby certify that the witness whose testimony appears in the foregoing deposition was duly sworn; that the testimony of said witness was taken in shorthand and thereafter reduced to typewriting by me or under my direction; that said deposition is a true record of the testimony given by said witness; that I am neither counsel for, related to, nor employed by any of the parties to the action in which this deposition was taken; and, further, that I am not a relative or employee of any attorney or counsel employed by the parties hereto, nor financially or otherwise interested in the outcome of this action.

Notary Public in and for the District of Columbia

My Commission Expires

JULY 31, 2000

KENNEDY EXHIBIT 1 WAS NOT PROVIDED IN TIME FOR PUBLICATION



DEPOSITION OF CHARLES J. PEACOCK IN RE: S. RES. 120

TUESDAY, JANUARY 16, 1996

U.S. Senate,
Committee on Banking, Housing, and Urban Affairs,
Special Committee to Investigate Whitewater
Development Corporation and Related Matters,
Washington, DC.

Deposition of CHARLES J. PEACOCK, called for examination pursuant to notice of deposition, at 1:25 p.m. in Room 534 of the Dirksen Senate Office Building, before PATRICIA A. ZUBER, a Notary Public within and for the District of Columbia, when were present:

H. CHRISTOPHER BARTOLOMUCCI, Esq. Majority Associate Special Counsel JAMES S. PORTNOY, Esq. Minority Associate Special Counsel U.S. Senate Committee on Banking, Housing, and Urban Affairs 534 Dirksen Building Washington, DC 20510 On behalf of the Committee.

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by Mr. Bartolomucci	

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Deposition Number	IDENTIFIED
CP Exhibit 1	20, 1112

PROCEEDINGS

MR. BARTOLOMUCCI: Good afternoon. Mr. Peacock. My name is Chris Bartolomucci. I'm the associate special counsel with the Special Committee to investigate Whitewater with the Majority staff. Before we begin, there are some preliminary matters I need to discuss for the record.

This is a deposition being conducted pursuant to Senate Resolution 120. That resolution establishes a Special Committee administered by the Banking Committee to conduct an investigation of Whitewater Development Corporation and certain other related matters including matters pertaining to Madison Guaranty Savings & Loan.

This deposition is being conducted in 16 advance of public hearings. You may or may not be called to testify at those hearings. We'll let you know.

I'm going to be asking you questions under oath. If at any time you don't understand a question, please let me know and I'll rephrase it for you. And tell me if you need a break, and we'll take

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one if need be.

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The stenographer is going to prepare a record of questions and answers, and this deposition will be treated as what we call committee confidential until the commencement of the hearings.

Prior to the hearings, you will receive a letter from the Committee telling you that you may come, if you wish, to the Senate to review the transcript of your deposition and make any corrections on an errata sheet.

If you are called to testify at a public hearing, you'll also be given a copy of your deposition four days in advance of the hearing.

I see you're not represented by counsel today, but you are aware that you had that right; am I right there.

MR. PEACOCK: Yeah.

MR. BARTOLOMUCCI: Okay. Objections to the form in which a question is posed will be noted for the record. Objections may also be raised to questions on grounds of privilege or scope, and if there are any objections to a question, the Committee

5 1 Chairman may rule upon them. 2 You want to go ahead and swear the 3 witness. 4 Whereupon, 5 CHARLES J. PEACOCK 6 was called as a witness and, having first been duly 7 sworn, was examined and testified as follows: 8 EXAMINATION 9 BY MR. BARTOLOMUCCI: 10 Please state your full name for the 0 11 record 12 Α Charles I Peacock 13 14 15 16 17 0 Mr. Peacock, did you live in Bald Knob in 18 19852 19 Α I did 20 Where is Bald Knob in relation to downtown 0 21 Little Rock? About 55 miles northeast. 22 6 1 Could you briefly sketch for us your 2 educational background. 3 University of Arkansas and several sub courses and specialty courses in real estate, 4 marketing and some other things. And I also have 5 6 some background in ichthyology, which is the study of 7 fish. 8 0 And you have at least one son; am I 9 correct? 10 Α I have three sons. Will you tell us their names? 11 O 12 Charles Peacock, IV, R.J. Peacock, and Ken Α 13 Peacock. 14 0 Do you or any of your sons go by nicknames? 15 Α Charles, IV goes by Chuck. Goes by Chuck. What was your line of 16 0 business in 1985? 17 18 Farming and land development. Α And how about now what do you do? 19 0 I work as a consultant, and I build tanks. 20 A 21 What kind of matters do you consult on? 0

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Agricultural matters.

stock together, and McDougal needed somebody on the

9 board, so they elected me to be on the board there as 2 a minority -- representing the minority stockholders. 3 You were elected by who to be on the board? 4 Α The whatever -- whoever was on the board at 5 the time. 6 0 Did McDougal or someone else specifically 7 approach you about being on the board? 8 He did. 9 0 And do you remember the circumstances under 10 which you ceased to be a director of Madison? 11 Yes. I got too busy to be a director and 12 make the meetings right there with all the work I had 13 to do. 14 So did you resign? 0 15 Α I resigned. They put my son on in my 16 place. 17 Which son is that? Q 18 Α That's Chuck. 19 0 Chuck. And again, do you remember when it 20 was that you resigned from the board? 21 Α I do not. 22 What did you do as a director of Madison? 0 10 1 I worked on new business primarily, trying 2 to get people to transfer their commercial accounts 3 to Madison and get new customers and solicit 4 deposits. 5 Now, I have read a press account that you 6 left the Madison board of directors on April 2nd of 7 1985. Does it sound to you like that date might be 8 right? 9 Α I don't remember. 10 0 Okay. Were you also a shareholder in Madison? 11 12 Α I was. 13 Do you know when you first began to own 14 stock in Madison? 15 When McDougal first bought Madison out, and 16 I felt like it would be a good operation since the 17 Stevens Corporation had loaned him the money to buy 18 it with. I had always had a lot of confidence in 19 Whit Stevens. 20 So you first bought stock in Madison when 21 McDougal started to become involved?

I owned stock in the original Madison and

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McDougal insisted that he buy all the large	
stockholders out. So I took the money that he bought	
out and picked up the little minority shares here, 10	
or 15 shares in different places.	
Q Do you remember what percentage of the	
stock you owned at its peak?	
A I don't know. 3 or 4 percent, something	
like that. It wasn't much.	
Q Do you remember being deposed in 1987 in	
connection with a suit between Madison and Dixie	
Continental Leasing?	
A Yes, sir.	
Q One of the answers you gave in that	
deposition is that "we were small stockholders but	
until the clan started diluting it down and playing	
with it out there, we were the second largest	
stockholders."	
A That's probably true because McDougal owned	
everything else, see.	
Q So you were the second largest, but	
A 2 percent or 1 percent would have been the	
second largest, see.	
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Q I see. Just for the record, that's page 28	
of deposition in a case styled Madison Guaranty	
Savings & Loan versus Dixie Continental Leasing,	
deposition of Mr. Peacock on April 15th, 1987.	
Was anyone else in your family a	
shareholder in Madison?	
A My father and mother had some stock in it,	
my mother-in-law and father-in-law had stock in it,	
and my brother Joe had stock in it.	
Q What about your boys?	
A I think they had some stock in it. It	
wasn't a lot, but they had some.	
Q In 1985 did you have a checking account at	
Madison Guaranty?	
A I'm sure I did.	
Q Do you know Jim Guy Tucker?	
A I just know him when I see him.	
Q But you don't know him personally?	
A No.	
O H	
Q Have you ever had any business dealings with him?	

A Not that I know of.

13 Did you know J.W. Fulbright? 1 0 2 Yes. I knew him back when I was just a Α 3 kid 4 So you knew him personally? 0 5 Well, I'd met him a few times. I wouldn't 6 say it was personally. 7 Did you ever have any business dealings 8 with Senator Fulbright? Did I ever have any business. 9 Α 10 0 Any business dealings? 11 Α No. sir. 12 O Do you know Bill Clinton? 13 Not really. Α 0 You've met him? 14 15 A I've met him. O And again no business dealings? 16 17 Α No. Do you know Brett Pharis, used to be a 18 0 19 Madison employee? I'm sure I've met him, but I don't really 20 21 know if I'd know him. How about John Latham? 22 14 1 I met John and had some dealings with John. A 2 0 Were these dealings in connection with your 3 position as a director of Madison? 4 That's been 10 years ago. I don't remember 5 what they were. Okay. Can you tell us what Dixie 6 7 Continental Leasing was? 8 It was a development company that we had to 9 develop a real fancy, high class trailer park and a shopping mall set-up. McDougal would have called it 10 a red neck shopping mall. 11 You were the president of Dixie 12 0 13 Continental? I was. 14 15 And you say it was formed to do this specific trailer park development? 16 17 Well, I'd already done some other developments with Dixie Continental for years. It 18 19 was an old corporation. But you're saying then that the major piece 20

of work it did was on this trailer park development?

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Right.

15 1 Do you remember the name of this 2 development? 3 No. it was on Woodson Lateral Road. 4 Do you remember anything else about it? 5 We had it all developed and ready to go to 6 start placing things in and McDougal couldn't get the 7 water across the road and the sewer system across the 8 road that he promised us. 9 So McDougal owned the development? 10 I think Madison owned the development to 11 start with and then I bought it from them, see? 12 I see. But this is not the Maple Creek development? 13 14 No, it's not. It's across the interstate 15 from Maple Creek. Now Mr. Peacock, are you aware of a 16 17 fundraiser held on April 4th, 1985 at the offices of 18 Madison Guaranty? 19 A I have been reminded of that by the press 20 for three or four years. 21 Now, do you know for whose benefit the 22 fundraiser was held? 16 1 Α It was for Bill Clinton. 2 And did you attend the fundraiser? 0 3 I did. Α 4 Do you remember about how many people were 0 5 there? 6 Oh, it was probably 75 or 80 people. Α 7 Do you have an idea of how long it lasted? 0 8 I don't remember. Α 9 Was it held in the evening, the afternoon? 0 It was at night if I remember right. 10 Α 11 How did you come to attend the fundraiser? 0 12 A friend of mine from -- was head of the 13 highway commission, Mr. Smith, had asked that I come. 14 Is this Steven Smith? 0 15 No. This was -- he was from Birdeve, with 16 the highway department. I'll think of his name in a 17 minute. I've got this problem. They call it Old 18 Timer's disease, and I don't remember a lot of 19 things.

Okay. Well, if you think of his first

name, please tell me. And so this Mr. Smith --

That's Maurice Smith.

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Maurice Smith?

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Yes.

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3 Q He asked you to come to the fundraiser? 4 Α Right. 5 O Do you remember when he did that? 6 I don't remember when. But he was giving Α 7 me an opportunity to vote on a horse or bet on a 8 horse that had already run the race, and that was 9 something I'd never been able to do before. I always 10 had to make my political contribution before the 11 horse run. 12 0 What do you mean you had to bet on a horse? 13 Well, Bill Clinton, he was already Α 14 governor. 15 So you understood that this fundraiser was 0 to pay down --16 17 Α His debt. 18 O -- debt incurred in the previous election? 19 A Right. 20 So you thought --O 21 And this was the highway commissioner, Α 22 state of Arkansas, long-time friend of mine and we 18 1 owned 10,000 acres at that time in east Arkansas, and 2 consequently I have a four-lane highway right now in 3 front of the farm. I don't know if this had anything 4 to do with it or not, but it didn't hurt the 5 community. 6 Did this Mr. Smith say anything to you like 7 I'm sure the governor would sure appreciate you 8 attending the fundraiser? I don't remember what he said. 9 10 Q Did Governor Clinton attend the fundraiser? 11 Α No. 12 He didn't show up? 0 13 Huh-uh. Α 14 Q Was Mr. McDougal there? 15 Α I think he was there. 16 What about Jim Guy Tucker? Do you remember O if he was there? 17 18 I didn't see him. Α 19 Is that you don't remember seeing him or 0 20 your memory is that you didn't see him there? 21 I don't remember seeing him there if he A 22 was.

19 1 Q Okay. What about Senator Fulbright? 2 I don't remember seeing him there either. 3 I'm going to show you a list of names that 4 I drew up, and if you would, please tell me whether 5 you remember any of these people being at the fundraiser. 6 7 (Witness reviewed the document.) 8 Gosh, that's been 10 years ago. I don't 9 remember who was there. 10 MR. PORTNOY: Let's go off the record for a 11 second. 12 (Discussion off the record.) 13 BY MR. BARTOLOMUCCI: 14 All right. We're going to mark this list as an exhibit, and again, do you -- just go down the 15 list and tell me whether you remember if any of these 16 17 people attended the fundraiser. 18 Young man, I don't remember if any of them 19 were there or were not there. I do know that Jim was 20 there because he was up in his office, I think. I 21 don't remember whether Susan was there or not. 22 By Jim, you mean --0 20 1 Α Jim McDougal. 2 And Susan McDougal? Q 3 Charles Peacock III was there. A 4 O Sure. 5 These others I don't, I don't recall. A 6 0 What about your son Ken? 7 Α I don't remember whether Ken was there or 8 not. I think he was, but I don't know. 9 0 Do you remember whether Dene Landrum was 10 there? 11 Α Dene was there. 12 0 He was there? 13 Α Uh-huh. 14 0 And Dene was your business partner at the 15 time? 16 Right. Dene wouldn't miss out on anything 17 that had a little bit of show to it or a party or if 18 he could put on a black tie and go somewhere, Dene 19 loved it. I'd rather be in my overalls. 20 (CP Exhibit 1 identified.) 21 (Discussion off the record.)

BY MR. BARTOLOMUCCI:

21 1 Mr. Peacock, can you tell me what happened at the fundraiser? Was it just sort of a cocktail 2 3 party? 4 Α It was kind of a cocktail party. 5 0 Did anyone make sort of a speech or public announcement? 6 7 If I remember right, Maurice Smith made a 8 little talk and thanked everyone for showing up. 9 And that's the same fellow who invited you 10 to come in the first place? Uh-huh. I bought calves from Maurice Smith 11 12 in 4-H, and we bought bulls from him and our families 13 had been friends for umpteen years. 14 Did someone at the fundraiser collect checks or donations? 15 I believe that Maurice did 16 17 0 Did Mr. Smith ask you to make a donation? 18 Well, he suggested it would be real nice if 19 I did, and I been in politics all my life. I 20 understood, you know, the governors or the senators 21 or all of them have to have funds if they're going to 22 operate, and it's a damn sight easier to get in to 22 see them if you've helped them than if you've never 1 2 done anything for them. 3 So did you make a donation at the 4 fundraiser? 5 Right. Α 6 It's been widely reported that in 7 connection with the fundraiser, the Bill Clinton 8 campaign received two \$3000 Madison Guaranty 9 cashier's checks, one bearing the name Ken Peacock. 10 and the other bearing the name Dene Landrum. Now, you've been quoted in the press as saying that you 11

described? Uh-huh

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And again in the press, your son, your son Ken Peacock has denied knowing anything about the donations. Did you tell him that you had made a donation in his name?

caused these checks to be donated; is that correct?

You bought those two checks that I've

I bought the checks.

I don't think I did. Ken was one of these young men, and I'm proud of him, he's a super

1087 1 Christian and if he would have thought that I was trying to do anything to influence to get him a job 2 3 with the governor when he got out of law school he'd 4 be upset. I knew if there was anyone in Arkansas that could help him get a job as a young lawyer, the 5 6 governor would be the man to help and I felt he 7 wouldn't forget him. 8 You are saying you paid for these checks 9 and had them donated to Bill Clinton because you thought it might help your son get a job? 10 11 That's one of them. And Landrum needed a 12 favor out of the governor on a friend's kids to get a scholarship and he felt that might help him. 13 So that's why you bought a check in 14 15 Mr. Landrum's name? 16 Right. Α 17 And would you tell me again what kind of a 18 favor Mr. Landrum was looking for? He had a friend that had some kids that 19 20 were, they were rated real high scholastically and he was looking for the scholarship that the governor can 21 22 give out I believe 16 or something a year in Arkansas 24 1

to different colleges and he felt that would influence it there.

- Did they get the scholarship? 0
- 4 Α I don't know.

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5 I want to show you a couple of documents. 0 These appear to be Madison Guaranty guarantee cashier 6

7 checks, both are in the sum of \$3000. Both are dated

April 4th, 1985. Both are payable to Bill Clinton

9 and on one, the remitter is listed as Ken Peacock, on

10 the other the remitter is Dene Landrum. The Dene

11 Landrum check is numbered Q 2498, and the Peacock

check is numbered Q 2497. The only identification 12 13

numbers that the documents have are D-3 and D-5.

Now, are these the -- do these appear to be the checks that you purchased?

I'm sure they are.

I believe I've also read in the press that you initially denied having anything to do with these checks; is that correct, that you initially denied?

I don't remember denying having anything to do with the checks. Of course the press have misquoted me more times than they've ever gotten

1 anything straight. You know, the press is 2 sensationalism. They love to make a big story out of 3 a mole hill or whatever, and I've got just about as much confidence in the press as I have in a rattle 4 5 snake.

0 But you're telling us today that you did pay for them?

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I bought those at the same time I was spending probably 10,000 a week on diesel fuel to run my equipment.

What's the relationship between your diesel 0 fuel?

13 I'm talking about the fact that everybody 14 has been excited about me spending \$6000 to a 15 governor's campaign when my expenses were probably running \$50,000 a month. 16

The point you're making is that this wasn't necessarily a significant amount of your money?

19 It wasn't a significant amount at that 20 time. Now today it would be a hell of a significant deal because I'm broke. But then I was busy farming 21 22 and making money.

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Were you aware when you bought the checks 1 2 that in Arkansas in 1985 it was illegal to donate more than \$1500 per candidate per election? 3 4

I was not aware of that.

O Were you aware that in Arkansas in 1985 it was illegal to make a contribution in a name other than that by which you were known for legal purposes?

I wasn't aware of that either. The FBI told me it was a felony and I said lock me up and take me on because I've been kicked and wrassled around so damn much on this deal that I'm just wore out.

13 Do you remember how you paid for these 0 checks? 14

I don't remember how I paid for them, whether I paid for them with a check or whether I paid for them out of funds or what I did.

I'm going to show you another document. Appears to be a Madison Guaranty check in the amount of \$6000 dated April 4, 1985, and it looks like it bears your signature. Does that photocopy look

22 familiar to you?

		2
1	A I don't remember it. Like I say, that's 10	~
2	years ago. But it probably is.	
3	Q Does that appear to be your signature on	
4	the check?	
5	A It really doesn't look like my signature,	
6	but I don't I'm not saying anybody forged it or	
7	anything. But I'd have had to pay for them some way	
8	and that would have been as good as any other way.	
9	Q Just for the record, this is a document	
10	which is labeled D-2.	
11	Now, I also want to show you another	
12	document which is a Madison Guaranty cashier's check	
13	payable to Madison in the amount of \$4, the number on	
14	the check is Q 2499 and the remitter is Charles	
15	Peacock III. The document bears identification	
16	number D-7.	
17	Mr. Peacock, does this check look familiar	
18	to you?	
19	A I think we charged \$2 for each cashier's	
20	check, so it very likely is.	
21	Q So in other words you bought the cashier's	
22	check to pay the \$4 fee on the 2 \$3000 checks that	2
1	you purchased?	2
2	A I'm sure that's what happened. I don't	
3	remember but that stands to reason.	
4	Q Do you remember why you bought a cashier's	
5	check for \$4 instead of paying \$4 in cash?	
6	A Yes, sir. I wanted to make damn sure the	
7	governor knew where the money came from.	
8	Q So you wanted there to be a record that you	
9	were ultimately behind the two checks?	
10	A Right.	
11	Q Going back to the \$6000 check that I showed	
12	you, you believe this is probably a check that you	
13	wrote to pay for those two checks?	
14	A It probably is.	
15	Q Did you purchase the two \$3000 checks	
16	during the course of the fundraiser?	
17	A That's 10 years ago. I don't know when I	
18	purchased them.	
19	() Since all those decuments are detect April	
	Q Since all these documents are dated April	
2021	4th, 1985, do you have any doubt that that's the day on which you did the transaction?	

That's probably the day that they were

		29
1	purchased.	
2	Q But, you have no memory as to whether you	
3	bought the checks in the course of the fundraiser at	
4	Madison?	
5	A What do you mean "in the course of the	
6	fundraiser"?	
7	Q During the period in which it was held,	
8	during the party?	
9	A Oh, I don't know. I'm sure that if it was	
10	held at night the bank probably wasn't even open at	
11	that part. So in that case, it had to have been	
12	bought earlier, I'm sure.	
13	Q And you're sure you bought them at Madison	
14	itself?	
15	A Right.	
16	Q You were physically there?	
17	A Right.	
18	Q Do you remember who you dealt with at	
19	Madison to do this transaction?	
20	A I don't remember.	
21	Q Do you remember who you physically gave the	
22	checks to to make the donation?	
		30
1	A I gave them to Maurice Smith.	
2	Q Now, you told me that you had one of the	
3	checks made out in your son's name because you	
4	thought it might help him. He was in law school,	
5	maybe he would get a job through it.	
6	If that's the case, why didn't you tell him	
7	that you had made a donation?	
8	A I told you that a while ago. You didn't	
9	listen.	
10	Q I was listening. I want you to say it	
11	now.	
12	A No, Ken would have been upset, I'm sure, if	
13	he thought his dad was trying to buy him a position	
14	in the state right there. And so there wasn't any	
15	need to tell him. Of course he still gets a	
16	Christmas card from the President and I'm sure he	
17	gets invited to all of the high dollar fundraisers.	
18		4
	Q Did Dene Landrum know that you had made ou	τ
19 20	Q Did Dene Landrum know that you had made ou the check for him? A It was Dene's idea. He was there with, and	τ

if I recall right, Dene gave the check, his check to

22 Maurice.

1 So if Dene was there, you said that Dene 2 was at the fundraiser party with you, does that mean that you handed over the checks to Mr. Smith during 3 the course of the party that evening? 4 5 I'm sure it was sometime during the party. 6 Was Mr. Landrum with you when you purchased 0 7 the checks? 8 A Now, look, fella, you are going back 10 9 years ago. I don't remember whether Dene was there 10 with me or not. I'm just asking you what you remember. 11 O 12 I'm just telling you. A 13 I realize it was a while ago --14 Α Yeah. 15 -- and I just want to know. O I don't even remember what I did last week. 16 Α Did anyone other than Mr. Smith ask you to 17 0 18 attend the fundraiser or to make a contribution? My brother did, Joe, the attorney. 19 20 0 Was he involved in the Clinton campaign 21 somehow? Well, Clinton was his professor in law 22 32 school and they'd been friends for years and years. 1 Was he involved in the fundraiser somehow? 2 3 I don't recall that he was, but I'm sure he 4 had an interest in anything to help his buddy. 5 So he, your brother, encouraged you to make 6 a donation? 7 A Right. What about Jim McDougal? Did he ever 8 9 encourage you to make a donation? 10 I don't recall that he ever did. Do you know whether you spoke with him 11 0 12 about the fundraiser? 13 A Like I say that's been 10 years ago. 14 Referring again to the \$6000 check that we were discussing earlier, this appears to be a counter 15 check. It's not one from your checkbook. It doesn't 16 17 have your name or address in the corner. I didn't -- a lot of times I didn't use one 18 19 that was my name on it. I used the cheapest check I 20 could get. They all spent the same way.

Q But you did have a -- you did have an

account at Madison Guaranty?

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             I'm sure I had two or three accounts at
2
   Madison.
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What I'm trying to get at, is it possible 0 4 that when you purchased this check you just didn't have your checkbook with you, or do you think this 5 6 was one of your regular accounts that merely didn't bear your name and address in the corner? 7

I'm sure it's one of the regular accounts right there. I never have been real excited about having a fancy check. One of them would get money out of a bank just as good as another will if you got anything in there.

MR. PORTNOY: Let -- the record might 13 14 reflect that the account number appears to be printed on the check rather than handwritten as is usually 15 16 the case on counter checks, just to make the record 17 clear.

18 MR. BARTOLOMUCCI: Well, you could --19 MR. PORTNOY: I'm just reflecting. BY MR. BARTOLOMUCCI: 20

There's another document I have. It 21 0 appears to be a copy of a Madison Guaranty cashier's 22

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1 check again in the amount of \$3000. The remitter on the check is J.W. Fulbright. It says "pay to the 2

order of Bill Clinton Campaign Fund." The number on 3

the check is O 2496 which places it sequentially 4

5 immediately prior to the two that you purchased in

6 the names of your son and your business partner. Do

7 you know anything at all about this check?

I do not, but the number of cashier's checks that we sold at Madison was very, very few, so that could have been a span of two or three days. We didn't sell that many cashier's checks.

Well, I'll note that the date is April 4, '85 so this one was purchased the same day as the 13 two that you purchased, but you have no knowledge 14 about this check? 15

> Α No. I do not.

17 In connection with that fundraiser, did you 18 make any other contributions in the name of someone other than yourself? 19

No Α

21 I want to show you another document. This 22 is again a Madison Guaranty cashier's check dated

- April 4, 1985. And it says "payable to the account 1
- of Charles Peacock III," and the amount of the check 2
- is \$50,000. Do you remember why Madison Guaranty 3 4
- wrote you a check for \$50,000 on April 4th, 1985? 5
 - A I really don't remember.
- Would it refresh your recollection if I 6
- were to suggest that this was -- this check was 7
- written in connection with a loan that you took out 8
- 9 from Madison?
- A It could have been. 10
- Q Let me show you another document which 11
- appears to be a loan form. It appears to reflect 12
- that you took out a loan from Madison in the amount 13
- of \$50,000 on April 5th, 1985. I'm going to show you 14
- this document. Does that refresh your recollection 15
- at all about why you received \$50,000 from Madison on 16
- April 4th, 1985? 17

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- I don't remember exactly why. 18
- O I have another document which is another 19
- loan form which reflects that Dixie Continental 20
- Leasing borrowed 297,000 from Madison on April 4th, 21
- 1985. I'm going to show that to you. Does that 22

- document refresh your recollection at all? 1
 - This is property that I bought from
- Madison, if I remember right, where I told you we put 3 the trailer park. 4
 - Was that the Maple Creek property?
- No, this was not the Maple Creek. This was 6 7 the Woodson Lateral property.
- Mr. Peacock, do you remember being 8
- interviewed by a man named Ken Plunk in 1986? He was 9
- an investigator with the firm of Borod & Huggins. 10
- I don't remember. 11
- Well, I have a document prepared by the 12
- firm of Borod & Huggins which indicates that Dixie 13
- Continental Leasing agreed to purchase approximately 14
- 30 acres of raw land located on Woodson Lateral Road 15
- in the Pine Bluff Freeway on April 4th, 1985. Dixie 16
- 17 paid 335,000 for the land and borrowed 297,000 from
- Madison Guaranty to finance the purchase. The 18
- difference between the purchase price and the amount 19
- of the loan was paid in cash as a down payment 20
- according to Peacock; is that correct to the best of 21
- your recollection? 22

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1	A I don't remember.
2	Q I want to show you a document which is the
3	Madison Guaranty check from your account dated April
4	5th, 1985, payable to Quapaw Title Company,
5	Q-u-a-p-a-w. The amount of the check is \$38,940.
6	I'm going to show that to you.
7	Do you remember why you wrote that wrote
8	for nearing 39,000?
9	A I don't remember.
10	Q So thus far, we've seen that on April 4th,
11	1985, Madison wrote you a check for \$50,000. On that
12	same day, you filled out a loan form in which you
13	borrowed 297,000 from Madison and that on loan form
14	dated April 5th, 1985 you filled out a loan form so
15	that you could borrow \$50,000 from Madison Guaranty.
16	Could it be that the \$50,000 check was
17	meant to fund the loan, that \$50,000 loan?
18	A I don't know. I don't remember.
19	Q Is it possible that the \$50,000 was meant
20	to act as a down payment on the property that you
21	purchased in connection with the 297,000 loan?
22	A I don't remember.
1	Q Let me ask you again, do you remember now
	Q Let me ask you again, do you remember now
2	why you were naving Ouanaw Title Company \$38,940 on
2	why you were paying Quapaw Title Company \$38,940 on
3	April 5th?
3	April 5th? A I don't remember.
3 4 5	April 5th? A I don't remember. Q Do you remember a lawsuit between Madison
3 4 5 6	April 5th? A I don't remember. Q Do you remember a lawsuit between Madison Guaranty Savings & Loan and Dixie Continental
3 4 5 6 7	April 5th? A I don't remember. Q Do you remember a lawsuit between Madison Guaranty Savings & Loan and Dixie Continental Leasing?
3 4 5 6	April 5th? A I don't remember. Q Do you remember a lawsuit between Madison Guaranty Savings & Loan and Dixie Continental Leasing? A No, I don't.
3 4 5 6 7 8	April 5th? A I don't remember. Q Do you remember a lawsuit between Madison Guaranty Savings & Loan and Dixie Continental Leasing? A No, I don't. Q 1987? Earlier you said you remembered
3 4 5 6 7 8 9	April 5th? A I don't remember. Q Do you remember a lawsuit between Madison Guaranty Savings & Loan and Dixie Continental Leasing? A No, I don't.
3 4 5 6 7 8 9	April 5th? A I don't remember. Q Do you remember a lawsuit between Madison Guaranty Savings & Loan and Dixie Continental Leasing? A No, I don't. Q 1987? Earlier you said you remembered being deposed in connection
3 4 5 6 7 8 9 10	April 5th? A I don't remember. Q Do you remember a lawsuit between Madison Guaranty Savings & Loan and Dixie Continental Leasing? A No, I don't. Q 1987? Earlier you said you remembered being deposed in connection A Yeah, but I don't remember the lawsuit.
3 4 5 6 7 8 9 10 11	April 5th? A I don't remember. Q Do you remember a lawsuit between Madison Guaranty Savings & Loan and Dixie Continental Leasing? A No, I don't. Q 1987? Earlier you said you remembered being deposed in connection A Yeah, but I don't remember the lawsuit. Q Do you remember what the lawsuit concerned?
3 4 5 6 7 8 9 10 11 11 12	April 5th? A I don't remember. Q Do you remember a lawsuit between Madison Guaranty Savings & Loan and Dixie Continental Leasing? A No, I don't. Q 1987? Earlier you said you remembered being deposed in connection A Yeah, but I don't remember the lawsuit. Q Do you remember what the lawsuit concerned? A I don't remember.
3 4 5 6 7 8 9 10 11 11 12 13 14 15 16	April 5th? A I don't remember. Q Do you remember a lawsuit between Madison Guaranty Savings & Loan and Dixie Continental Leasing? A No, I don't. Q 1987? Earlier you said you remembered being deposed in connection A Yeah, but I don't remember the lawsuit. Q Do you remember what the lawsuit concerned? A I don't remember. Q Do you remember putting up air conditioning equipment as collateral to secure a loan that you received from Madison Guaranty?
3 4 5 6 7 8 9 10 11 12 13 14 15 16 17	April 5th? A I don't remember. Q Do you remember a lawsuit between Madison Guaranty Savings & Loan and Dixie Continental Leasing? A No, I don't. Q 1987? Earlier you said you remembered being deposed in connection A Yeah, but I don't remember the lawsuit. Q Do you remember what the lawsuit concerned? A I don't remember. Q Do you remember putting up air conditioning equipment as collateral to secure a loan that you received from Madison Guaranty? A I did one time. I don't remember which
3 4 5 6 7 8 9 10 11 11 12 13 14 15 16 17 18	April 5th? A I don't remember. Q Do you remember a lawsuit between Madison Guaranty Savings & Loan and Dixie Continental Leasing? A No, I don't. Q 1987? Earlier you said you remembered being deposed in connection A Yeah, but I don't remember the lawsuit. Q Do you remember what the lawsuit concerned? A I don't remember. Q Do you remember putting up air conditioning equipment as collateral to secure a loan that you received from Madison Guaranty? A I did one time. I don't remember which loan, but I remember that it was about probably 150,
3 4 5 6 7 8 9 10 11 12 13 14 15 16 17	April 5th? A I don't remember. Q Do you remember a lawsuit between Madison Guaranty Savings & Loan and Dixie Continental Leasing? A No, I don't. Q 1987? Earlier you said you remembered being deposed in connection A Yeah, but I don't remember the lawsuit. Q Do you remember what the lawsuit concerned? A I don't remember. Q Do you remember putting up air conditioning equipment as collateral to secure a loan that you received from Madison Guaranty? A I did one time. I don't remember which

Little Rock for \$1500, or the RTC bunch did, which I thought was stupid.

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1	Q Why did they have to sell the air	
2	conditioning equipment?	
3	A Well, I turned it, they foreclosed on a	
4	loan or something, and so I just gave it to them and	
5	everything.	
6	Q You didn't repay the loan?	
7	A I didn't repay the loan.	
8	Q This loan form I showed you earlier which	
9	reflects the \$50,000 that you borrowed from Madison	
0	appears to indicate that you put down air	
1	conditioner air conditioning equipment as	
2	collateral.	
3	Is that consistent with your memory that	
4	the	
5	A That's probably the way it was. You got it	
6	right there in black and white?	
7	You are talking about not paying the loan	
8	on that thing. They never did give me water. I made	
9	the complete development, got it altogether, got	
20	streets in, the engineering, and they never got me	
21	water or sewer over there as McDougal had promised.	
22	And I didn't feel like I was obligated at that point.	40
1	Q So you borrowed the money to purchase this	40
2	piece of property?	
3	A Right.	
4	Q McDougal was supposed to put in some	
5	A Sewer and water.	
6	Q utilities?	
7	A Uh-huh.	
8	Q And that never happened. You didn't pay	
9	back the loan?	
10	A I think that's what happened right there.	
11	Q Could it be that this is the subject of the	
12	lawsuit that I referred to?	
13	A I don't remember. It could be.	
14	Q You think it's likely, likely to be?	
15	A Well, I don't know. I don't remember. I	
16	can say it's been a long time ago, and I tried to	
17	forget everything I could have to do with Madison.	
18	They cost me so much money, threw me into bankrupto	y
19	and I just you know, you get fed up and sick of	
20	something right there. It was just to the point that	
21	I just tried to just forget everything.	

In your deposition of April 1987 in that

case, Madison Guaranty versus Dixie Continental Leasing, you said that McDougal took your down payment money and took it down and made a down payment on the 145th Street property which happens to be involved with Mr. Jim Guy Tucker and several other people.

Do you remember making that statement, or what that was about?

- I don't remember, but if that's what I said, that's probably what happened.
- O Do you have any memory of Mr. McDougal taking money that you had put up as down payment and using it for another purpose?
 - A I don't. I just don't remember.
 - Now, if I'm right, it was your recollection that the 297,000 loan was for the purchase of the Lateral Road property?
 - Α I think that's right.

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Okay. In this Borod & Huggins document that I showed you previously, and this was based upon an interview that you gave to Mr. Plunk, the Borod & Huggins document says that Dixie paid 335,000 for the

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land and borrowed 297,000 from Madison Guaranty to finance the purchase.

So part of that is consistent with what you remember, that the 297,000 loan was to buy this land?

- I think that's so.
- Okay. Now the difference between 297 and -- that is 297,000 and 335,000 is \$38,000.

That seems to be very close to the amount of the check that you wrote for -- wrote to Quapaw Title Company, which was for \$38,940. Does any of this refresh your recollection about the purpose of this check?

- I don't remember.
- Do you think based upon what you told Mr. Plunk in the Borod & Huggins interview and these 15 numbers that this check likely was to pay for -- that 17 this check was written in connection with the purchase of the Lateral property? 18 19
 - Like I'm telling you, I don't remember. That's been so long ago.
 - As I read before, the Borod & Huggins document indicates that you made -- you paid your

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- down payment in cash. Do you have any memory of 1 doing that? 2 3 I don't Α Now, on the assumption that the \$50,000 4 loan that you took out from Madison Guaranty on April 5 4th or April 5th was in connection with the purchase 6 of this Lateral Road property and similarly that the 7 \$38,940 check to Quapaw title was in connection with 8 the purchase of this property, do you have any memory 9 of what you did with the surplus between the 50,000 10 11 and the 38,940? 12 A I don't. Do you have any memory at all about taking 13 14 out these loans? 15 About what now? Α About borrowing the money. I'm referring 16 to the two loans, the 50,000 and the 297,000 loans. 17 I don't remember what happened back then. 18 Well, the dates on the documents indicate 19 that they're apparently filled out the same day as 20 the fundraiser. Does that assist your memory in any 21 22 way? 1 A No, it doesn't. 2 So in your -- there's no connection in your mind between the fundraiser and these loans? 3 4 I don't think so 5 You told me earlier that you resigned from the Madison Guaranty board of directors. Was that 6 resignation done at the request of Mr. McDougal, or 7 was it vour idea? 8 9 I'm sure it was my idea. You're sure that Mr. McDougal had nothing 10 to do with your decision to resign? 11 12 I don't think he was the one making me work 13 so hard. You resigned because you were working too 14 0 15 hard? 16 I was too busy. Α It's been reported in the press that 17 Mr. McDougal instructed to you resign from the board 18 shortly before you took out these loans. Do you have 19 any memory of that?
- I don't. 21 Α 22 Do you remember any connection between the O

45 1 checks that you purchased for Bill Clinton and the 2 loans that you obtained from Madison Guaranty? 3 No. I don't. 4 Well, I'll note that the \$50,000 that 5 represents the sum of the check that you received 6 from Madison Guaranty is dated the same as the two 7 \$3000 checks that you purchased. To the best of your recollection, there is no connection between the 8 9 \$50,000 check and the two \$3000 checks? 10 I don't think so. 11 Did you use any part of the proceeds from 12 that \$50,000 loan to procure the two checks? 13 A I don't remember. 14 Do you remember talking to a reporter for the publication, Newsday, a reporter named Jim Dwyer? 15 I don't remember. 16 17 Do you remember talking to any reporter? 0 18 I've talked to a bunch of reporters. I 19 usually told them I didn't have time for their bullshit and I was busy. Adios. 20 Q Well, you apparently talked to this 21 reporter and in the March 25th, 1994 issue of Newsday 22 46 it says "did he use money borrowed from the bank to 1 make the contribution?" That's to say, he was 2 raising the question did you use part of the loan 3 4 proceeds to fund the political contributions that 5 were made to Bill Clinton. And then the article quotes you as saying "how do you say what was money 6 7 that you earned and money that you borrowed?" 8 Do you have any memory of making that 9 statement? 10 A Do you have any idea of what you meant by 11 0 it? 12 13 Α I don't. 14 It goes on to say "when the Resolution Trust Company took over the bank, it owed me about a 15 million dollars for development work that I did but 16 17 never got paid for. I forget how much I owed them on the loans. It's all in the records, but it was 18 19 considerably less than they owed us." That again purports to be a quotation from you. 20 21 Do you remember saying that?

I don't remember saying it, but that's

1 about -- that's about the way it was.

- Q Your point is that yes, you had loans from Madison, but at the same time they owed you money?
 - A Right.

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Q Your point being that it's hard to say whether some money obtained from Madison was really money that had been loaned to you or whether it was money that was legitimately owed to you for work you had done?

A Like I said, I don't remember what the situation there was, but I do remember that we did all this development work and hadn't been paid for it.

Q Do you think it's possible that if you received \$50,000 from Madison on April 4 and paid about 39,000 to Quapaw on that same day, that you used some of the difference, the roughly 11,000 there, to pay for the two \$3000 checks that you caused to be donated to Bill Clinton?

- 20 A I really doubt it.
 - Q Why do you doubt it?
- 22 A Well, I could have picked up the \$6000 in,

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you know, any one of my accounts or anywhere. So there's no reason to believe, for me to believe that that's where the money came from or as you're suggesting that the only reason I did it was to get the loan or something. That's a bunch of bull.

- Q Can you tell me who Greg Hopkins is?
- 7 A He was my attorney at that time.
- Q Do you remember what matter he, or matters he represented, he represented you in connection with?
- 11 A I don't remember.
- Q I have a memorandum which is numbered TA 000238. This memorandum indicates that on April 21st, 1987, Mr. Hopkins, your attorney called Pat Heritage, a Madison loan officer, and the memo says the following. "Mr. Hopkins stated that a portion of the loan proceeds made to Dixie Continental Leasing went to Bill Clinton's campaign."

What do you make of Mr. Hopkins's assertion
that a portion of the loan proceeds made to Dixie
went to Bill Clinton's campaign?

22 A I don't know what to make of it but he

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1	wouldn't have known how the proceeds went.	
2	Q Do you have any idea why he would have made	
3	this sort of statement?	
4	A I don't.	
5	Q But he was your attorney at that time in	
6	1987?	
7	A He's one of them.	
8	Q Has anyone ever quoted from this memo to	
9	you before?	
10	A I don't recall.	
11	Q The memo goes on to say, "in return for	
12	this substantial campaign contribution, Bill Clinton	
13	assured Jim McDougal that a state agency would lease	
14	space from Madison at its headquarters on Main Street	
15	in Little Rock."	
16	Do you have any knowledge about Bill	
17	Clinton assuring Jim McDougal that a state agency	
18	would lease space from Madison in return for a	
19	substantial campaign contribution?	
20	A I don't.	
21	Q I have a document which is number 25285,	
22	which also consume the consumetion between	
22	which also concerns the conversation between	
		50
1	Mr. Hopkins and Miss Heritage, and this document says	50
1 2	Mr. Hopkins and Miss Heritage, and this document says "McDougal told Peacock that JGT and McDougal would	50
1 2 3	Mr. Hopkins and Miss Heritage, and this document says "McDougal told Peacock that JGT and McDougal would take care of Peacock."	50
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Grande the following. "Peacock says he thought

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1	Madison Financial Corporation owned the property.	
2	Consultant Plunk indicated that this investigation	
3	indicated that the property is owned by Seth Ward.	
4	Mr. Peacock was very surprised and plans to check the	
5	county land records to ascertain ownership for his	
6	own satisfaction."	
7	Do you have any memory of discussing this	
8	with Mr. Plunk?	
9	A I don't remember it, but I had they owed	
0	me a substantial amount across the road on this	
11	property I found out later that Seth Ward owned. I	
12	filed a labor material lien on it for I don't know,	
13	several, maybe a couple hundred thousand dollars	
14	worth of work on that one. And then my attorney,	
15	Mr. Hopkins, said I didn't rework it, didn't put it	
16	back every so often you have to go down to the	
17	courthouse and reenact it and he didn't do it. The	
18	next thing I know Seth Ward is out there building	
19	houses on the property we had developed.	
20	Q And again, you are speaking of the Castle	
21	Grande property?	
20	A 37 - 1.	
22	A Yeah.	
22		52
1	Q The interview indicates that you were very	52
		52
1 2 3	Q The interview indicates that you were very surprised to learn that Seth Ward owned the property	52
1 2 3 4	Q The interview indicates that you were very surprised to learn that Seth Ward owned the property A I was.	52
1 2 3 4 5	Q The interview indicates that you were very surprised to learn that Seth Ward owned the property A I was. Q or a part thereof?	52
1 2 3 4 5 6	Q The interview indicates that you were very surprised to learn that Seth Ward owned the property A I was. Q or a part thereof? A I'm sure I was.	52
1 2 3 4 5 6 7	Q The interview indicates that you were very surprised to learn that Seth Ward owned the property A I was. Q or a part thereof? A I'm sure I was. Q You had thought that strike that.	52
1 2 3 4 5 6 7 8	Q The interview indicates that you were very surprised to learn that Seth Ward owned the property A I was. Q or a part thereof? A I'm sure I was.	52
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I don't recall.

53 1 O Do you know anything about Madison's sale 2 of the sewer and water utility at Castle Grande to 3 Jim Guy Tucker and R.D. Randolph? 4 No. I don't. 5 I want to show you a document which is a O 6 photocopy of Mr. McDougal's phone message log. And 7 it appears to indicate that on April 8th, 1985, you 8 called and left a message for Mr. McDougal. If I'm reading it right, it says "left car 1:15." Did you 9 have any involvement with Mr. McDougal that related 10 11 to automobiles? 12 No A I know this is a very long time ago. Do 13 you have any idea at all what this message is about? 14 We may have repaired his car or something. 15 I don't know. I had a mechanic working for me on a 16 17 job. You think that's probably what this was 18 0 19 about? 20 Α It probably was. 21 Another message slip reflects a message 0 left by Ken Peacock to Mr. McDougal on April 29th, 22 54 1985. It's kind of difficult to read. I believe it 1 says "is leaving Fayetteville to bring papers for law 2 school. Remember to transfer 200 shares of MGSL 3 stock." Then there may be a word missing. It goes 4 5 on to say "he and his brother." 6 I don't remember. Α 7 But did Ken -- Ken did own stock in 0 8 Madison? 9 I think all three of them had a little bit, 10 a little stock in it. 11 Did your son Ken and Mr. McDougal have many dealings pertaining to stock that you know of? 12 No, I don't know of. Ken ran the -- worked 13 on the Madison -- on the Maple Creek deal one summer 14 15 between semesters with the equipment out there and did quite a bit of work. He worked 18 hours a day. 16 17 So do you have any idea what this stock transfer is referring to? 18 19 I don't have any idea. 20 Other than reporters or the FBI, has anyone talked to you or tried to talk to you about the 21

fundraisers or the checks or the alleged loan

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55 diversion that we've been talking about today? 1 2 I've sat before the FBI about three times 3 and before the grand jury in Little Rock on this 4 thing. 5 Okay. Other than the FBI or reporters or 0 6 the grand jury, has anyone else tried to talk to 7 you --8 Α Not that I know of. 9 0 -- about these matters? 10 Huh-uh. A 11 To the best of your recollection, no one that you would associate with Bill Clinton has 12 13 attempted to contact you? 14 No. No way. Α Have you ever been talked to or been 15 contacted by Bruce Lindsey? 16 17 Α No. 18 O How about Jim Blair? 19 Not that I know of. Α During the time that you were a Madison 20 director, did you have any knowledge of Whitewater 21 22 Development Corporation? 56 A No. Never even heard of Whitewater 1 2 Development until the press come up with all that. 3 I found a Newsweek magazine article dated February 14th, 1994 in which it quotes you as saving 4 the following. "I'm a politician and as a politician 5 I have the prerogative to lie whenever I want" --6 7 That was a total misquote. Α 8 O You didn't say that? 9 A I didn't say that. 10 What was being misquoted? The whole damn thing. That's what -- my 11 wife was in the office whenever they called me and 12 she said you never said that and I said I know it. 13 14 but I don't believe those bastards any way in the 15 world. Anything for a story. Is it your position, then, that you were 16 misquoted or that this was just completely 17 18 fabricated? 19 That was fabricated. 20 O Do you know by who?

A Well, the guy that wrote the damn article, 22 I'm sure.

57 Well, this article was a compilation of 1 quotations that they've taken from other people, so I 2 3 don't think he particularly wrote it. Do you 4 remember --5 I don't remember. 6 Q Are you a politician? 7 I don't think you can live in the United 8 States and not be a politician. 9 O So you would call yourself a politician? A Aren't you a politician? 10 O I don't think so. 11 12 Yes, you are. You are working for the Α 13 bureaucrat, you got to be a politician. 14 Well, did you say to a reporter "I'm a 15 politician"? 16 A I don't recall telling him I was a politician. Like the statement I've said before. 17 these reporters will say anything or do anything for 18 a story. 19 MR. BARTOLOMUCCI: I think that's all I 20 have for now. I don't know if you want to take a 21 break before Mr. Portnoy begins his examination. 22 58 Would you like that? 1 THE WITNESS: I'd just as soon get it over 2 3 with. Maybe I can catch my plane home. **EXAMINATION** 4 5 BY MR. PORTNOY: We'll try to get you on your flight, sir. 6 Q I'm trying to catch that 4:00 one. 7 8 O I don't think we're going to have any problem with that. 9 Good afternoon, sir, my name is Jim 10 Portnoy. I'm counsel for the Minority staff. I have 11 just a few follow-up questions to those that 12 13 Mr. Bartolomucci asked vou. Mr. Peacock, you've testified that you 14 purchased two cashier's checks in connection with the 15 April 4th, 1985 fundraiser; is that correct? 16 That's correct. 17 18 One of those checks was in the name of your 0 19 son, Ken? 20 Right. Α 21 And the other was in the name of your

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business partner, Dene Landrum?

59 1 Α Correct Just to be clear, you testified that 2 3 Mr. Landrum suggested that you purchase a check in 4 his name? 5 As a matter of fact, I think Mr. Landrum A 6 paid me back for the check later on in one of my 7 transactions or something. Do you have any specific recollection of 8 when that might have occurred? 9 10 I don't remember. I have trouble 11 remembering what happened last week. 12 Q But in response to my specific question, it 13 was Mr. Landrum's idea that you purchase the check in 14 his name? 15 Α Right. And whose idea was it that you purchase the 16 O check in the name of your son? 17 18 Sir? Α 19 Whose idea was it that you purchase the 0 check in the name of your son, Ken? 20 21 I think that was Dene, too. I hadn't even thought about how much of a difference it could make 22 60 right there, but I think it was Dene. But I don't 1 2 recall. 3 Prior to purchasing those cashier's checks, 4 sir, did you discuss with anyone other than Mr. Landrum that you planned to purchase cashier's 5 checks in the names of people other than yourself? 6 7 Α No. 8 O You never discussed that, for example, with Mr. Clinton? 9 10 Α Certainly not. 11 Or anyone from the Clinton gubernatorial 0 12 campaign? 13 Α No. With Mr. McDougal? 14 0 15 Α No one at all except Mr. Landrum, just to 16 0 be clear? 17

You also indicated, sir, that it was your hope that by making generous contributions to the

governor's campaign you might be able to help your

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son get a job --

Right.

61 1 Right. Α 2 -- with the state? 3 Did anyone connected to the Clinton campaign ever suggest to you that making a 4 contribution would help your son get a job? 5 6 Α No. 7 0 Did Mr. McDougal ever make such a 8 suggestion? 9 No. Α 10 Did anyone with any connection at all to Governor Clinton or the Clinton administration ever 11 suggest to you that making a campaign contribution 12 13 would facilitate --14 Α No 15 0 -- benefits for your son? 16 Α Huh-uh. 17 Same question with respect to the 0 18 contribution in Mr. Landrum's name. Did anybody ever suggest to you that by making contributions, 19 20 Mr. Landrum could facilitate the procuring of a 21 scholarship for his friend's child? 22 No, this was just, this is politics. If I 62 1 recall right, earlier when Reagan ran, my family 2 contributed about 20,000 to that rascal and he broke 3 every damn one of us when he got through with us in 4 the farming game. So we've always made contributions 5 to politicians. And then you expect to get something 6 back, a favor, being able to go into the office or 7 ask for help or whatever. 8 But nobody connected with the Clinton 9 administration --10 Α No. 11 0 -- ever promised you anything? 12 No. 13 Or hinted that anything would be available? 14 A No. 15 Q You were asked, sir, about a series of loans and checks on April 4th and April 5th, 1985 in 16 approximately the same time as the fundraiser you 17 18 attended. 19 To be clear, sir, did anyone at Madison offer to reimburse you if you made contributions to 20

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Mr. Clinton?

No.

Α

63 Did anybody in fact reimburse you for the 1 2 contributions you made to Mr. Clinton's campaign? 3 No A 4 0 Did anyone outside Madison ever offer to 5 reimburse you --6 A No. 7 O -- other than perhaps Mr. Landrum? 8 Α 9 0 When you were director of Madison, did you 10 have any day-to-day role in running the bank? Not in running the bank. As my position 11 was a director of new business, and I hustled, when I 12 13 was between jobs or nights or any time hustled 14 deposits and new business. 15 You didn't have any role, for example, in deciding to whom Madison might lease space? 16 17 No. 18 0 Did you ever discuss with Mr. McDougal the prospect that the state of Arkansas might lease space 19 from Madison? 20 21 Α No. 22 Q Did you ever discuss with anyone to the 64 best of your recollection the prospect that the state 1 of Arkansas might lease space from Madison? 2 3 Α No. 4 Did you ever discuss with Mr. McDougal any 0 5 kind of recompense, any kind of payback he might be getting from the Clinton administration in return for 6 7 raising funds? 8 Α No. 9 Did you ever discuss with anyone recompense or payback they might be getting in exchange for 10 raising funds for Clinton administration? 11 12 A 13 To the best of your recollection, were your 14 loans from Madison secured? A 15 Yes, sir. 16 O Were they at a market interest rate? 17 I'm sure they were. Α At an interest rate available to all 18 0 19 directors? 20 Α People.

And officers? So you didn't get any

special privileges or favors from Madison in return

21

65 for making those contributions, did you, sir? 1 2 Α No. 3 At some time you considered yourself close to Mr. McDougal, didn't you, sir? 4 5 A What now? 6 Was there a time that you considered 7 yourself close to Mr. McDougal? 8 A I figured -- I figured him a good friend until he didn't come through with what he promised on 9 some of this stuff and --10 11 Q He was responsible for you being hired to do the development work at Castle Grande? 12 13 Right. Other people he hired couldn't 14 perform and they were charging an arm and a leg. And then he sold the land without telling 15 16 you? 17 What? Α 18 0 Then he sold you the land without telling 19 you or at least part of it? I guess so. 20 A The land was sold, wasn't it? 21 0 22 A Yeah, right. 66 1 Q Did he tell you in advance? 2 No. I was never on the inside of the big 3 office. I was the one that ran the bulldozers and 4 ran the clearing out there, and as we say in Arkansas, I did the colored boy's job. 5 6 Sir, would you say it was common for 7 Mr. McDougal to keep his business partners in the 8 dark about his dealings? He did this one. I don't know what he did 9 10 with anybody else. 11 Do you recall any other business dealings 12 you might have had with Mr. McDougal where important decisions were made or important actions were taken 13 without his telling you? 14 15 I don't recall. 16 Mr. Bartolomucci asked you whether anyone 17 outside the press or federal investigators had attempted to contact you regarding any of the matters 18

we've discussed here. Just to be clear, sir, has

anyone in any way affiliated with either the Clintons

or the Clinton administration or any of the Clinton

campaigns ever tried to -- ever tried to induce you

19

20 21

		67
1	to remember or not remember anything about these	
2	matters?	
3	A No.	
4	Q Have they ever contacted you in any way?	
5	A No.	
6	Q No one has tried to some way you to tell a	
7	story or not tell a story?	
8	A No.	
9	MR. PORTNOY: That's all I have. Thank	
0	you, sir.	
1	EXAMINATION	
12	BY MR. BARTOLOMUCCI:	
13	Q I just want to ask you a few follow-up	
14	questions just to make sure the record is perfectly	
15	clear. You do remember purchasing the two \$3000	
16	checks dated on April 4th, 1985?	
17	A That's what the checks say right there.	
8	Q My question is you remember purchasing	
19	them?	
20	A Young man, I don't remember purchasing	
21	them, but we got the evidence there, the checks are	
22	there, and I'm sure I did.	
1	Co con hour or doubt that you did it?	68
1 2	Q So you have no doubt that you did it? A I'm sure I did.	
3	A I'm sure I did. Q We have also seen a check that same date,	
4	April 4th, 1985, which reflects that Madison paid you	
5	\$50,000. But you have no memory of the purpose for	
6	which you were being given \$50,000?	
7	A I don't know.	
8	Q You have no memory of it?	
9	A I don't remember. It could have been	
10	possibly for work that I'd done. You know, they	
11	usually owed me from 50- to \$100,000 a lot of times	
12	on work. But I don't remember.	
13	Q And similarly you have no memory of the	
14	purpose of the loan that you apparently took out on	
15	April 4th, 1985, the \$50,000 loan?	
15 16	April 4th, 1985, the \$50,000 loan? A I don't remember what the deal was.	
16	A I don't remember what the deal was.	
16 17	A I don't remember what the deal was. Q With respect to the check for 38,940	
15 16 17 18	A I don't remember what the deal was. Q With respect to the check for 38,940 dollars that you wrote to Quapaw Title Company in	
16 17 18	A I don't remember what the deal was. Q With respect to the check for 38,940	

My last question to you is in the Borod &

	(
1	Huggins report where it says that in connection with
2	the purchase of the Lateral Road property, you paid
3	the down payment in cash, do you have any reason to
4	doubt that that statement which was based upon an
5	interview with you is accurate?
6	A I don't remember. I just I don't
7	remember back then.
8	Q So there's nothing that you can recall
9	which would suggest that you didn't pay that down
10	payment in cash?
11	A I don't remember.
12	MR. BARTOLOMUCCI: Okay. I guess you're
13	going to make that flight.
14	(Whereupon, at 2:54 p.m., the deposition
15	was concluded.)
16	
17	
18	CHARLES J. PEACOCK
19	
20	
21	

I, PATRICIA A. ZUBER, the officer before whom the foregoing deposition was taken, do hereby certify that the witness whose testimony appears in the foregoing deposition was duly sworn; that the testimony of said witness was taken in shorthand and thereafter reduced to typewriting by me or under my direction; that said deposition is a true record of the testimony given by said witness; that I am neither counsel for, related to, nor employed by any of the parties to the action in which this deposition was taken; and, further, that I am not a relative or employee of any attorney or counsel employed by the parties hereto, nor financially or otherwise interested in the outcome of this action.

Notary Public in and for the District of Columbia

My Commission Expires FEBRUARY 14, 2000

Fundraiser

Bill Clinton

Don Denton

J.W. Fulbright or Mrs. Fulbright

Henry Hamilton

Eugene or Alice Harris

Pat Harris

David Henley

James Henley

Dene Landrum

John Latham

Nathan Lubin

Larry Kuca

James or Susan McDougal

Charles Peacock III

Ken Peacock

Brett Pharis

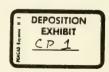
R.D. Randolph

Robert Randolph

Steven Smith

Jim Guy Tucker

Chris or Rosalee Wade



DEPOSITION OF CAROLYN C. HUBER IN RE: S. RES. 120

WEDNESDAY, JANUARY 17, 1996

U.S. SENATE,
COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS,
SPECIAL COMMITTEE TO INVESTIGATE WHITEWATER
DEVELOPMENT CORPORATION AND RELATED MATTERS,
Washington, DC.

Deposition of CAROLYN C. HUBER, called for examination pursuant to notice of deposition, at 3:20 p.m. in Room 534 of the Dirksen Senate Office Building, before BRENDA M. SMONSKEY, a Notary Public within and for the District of Columbia, when were present:

ROBERT J. GIUFFRA, JR., ESQ.
Majority Chief Counsel
ALICE S. FISHER, ESQ.
Majority Deputy Special Counsel
NEAL E. KRAVITZ, ESQ.
Minority Principal Deputy Special Counsel
RICHARD BEN-VENISTE, ESQ.
Minority Special Counsel
U.S. Senate
Committee on Banking, Housing, and Urban Affairs
534 Dirksen Building
Washington, DC 20510
On behalf of the Committee.

HENRY F. SCHUELKE III, Esq. Janis, Schuelke & Wechsler 1728 Massachusetts Avenue, NW Washington, DC 20036 On behalf of the Deponent.

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by Mr. Giuffra	5
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EXHIBITS

Carolyn C. Huber	
Deposition Number	IDENTIFIED
Huber Exhibit 1	74, 1191
Huber Exhibits 2 through 8	83, 1192

 possible.

PROCEEDINGS
MR. GIUFFRA: Good afternoon, Ms. Huber.
My name is Robert Giuffra. I'm the chief counsel of
the Senate Banking Committee. To my left is Alice
Fisher. She is a deputy special counsel to the
Majority.
Further on down the table is Neal Kravitz,
who is principal Minority deputy special counsel, and
then joining us in a minute will be Richard
Ben-Veniste, who is Minority special counsel.
This is a deposition that is being
conducted pursuant to Senate Resolution 120. This
resolution establishes a Special Committee
administered by the Banking Committee to conduct an
investigation involving Whitewater Development
Corporation, Madison Guaranty Savings & Loan
Association and other related matters.
You have been deposed before. Would you
want me to go through the preamble that we did previously? Would that be helpful?
MR. SCHUELKE: To what effect? I don't
recall in particular.
recuir in particular.
MR. GIUFFRA: I will go through it.
You have a right to be represented by
counsel here at the deposition.
Mr. Schuelke, why don't you note an
appearance for the record, sir.
MR. SCHUELKE: Henry F. Schuelke of the
firm Janis, Schuelke & Wechsler.
MR. GIUFFRA: I will ask you a series of
questions and someone from the Minority staff will
ask you a series of questions. You will be testifying under oath. If at any time you don't
understand a question, let us know. We will rephrase
it. If you need a break, let us know.
The court reporter will prepare a record of
the questions and answers. We will get the
deposition to you tomorrow morning first thing, and I
would like to ask the court reporter to see if you
could get us a copy of this transcript tonight, if

You will be testifying tomorrow at the public hearing, as you know. Until the hearings begin, we will keep the deposition transcript -- it

		5
1	will be treated as committee confidential, meaning it	2
2	won't be made available.	
3	Do you have any questions?	
4	MS. HUBER: No.	
5	MR. GIUFFRA: Mr. Schuelke?	
6	MR. SCHUELKE: No.	
7	MR. GIUFFRA: Please swear in the witness.	
8	Whereupon,	
9	CAROLYN C. HUBER	
10	was called as a witness and, having first been duly	
11	sworn, was examined and testified as follows:	
12	EXAMINATION	
13	BY MR. GIUFFRA:	
14	Q I know we went into this at your last	
15	deposition. What is your present position at the	
16	White House?	
17	A Special assistant to the President in	
18	charge, or director of personal correspondence.	
19	Q You have had that position since when?	
20	A February 1, 1993.	
21	Q And in that capacity, what services do you	
22	provide at the White House, perform at the White	
	provide at the vince ready, periods as all	6
1	House?	
2	A I open all of the personal mail. We have a	
3	personal code for the President, for the First	
4	Family. It is personal mail from friends, family.	
5	It comes into my office. I receive it all. I open	
6	it, and then I disburse it out to the different	
7	people that answer it.	
8	Q Do you have any other responsibilities at	
9	the White House?	
10	A Yes. I take care of all of the house	
11	guests that come, invite people to come overnight.	
12	Q And house guests stay on the third floor of	
13	the White House?	
14	A And second floor.	
15	Q Both third and second floors?	
16	A Yes.	
17	Q Do you perform any other services at the	
18	White House?	
19	A Yes. I pay all the Clintons' personal	
20		
40	bills, make out the checks and then they sign them.	

Normally, yes.

7 Do you perform any other services at the 1 2 White House? 3 I talk on the telephone a lot to people 4 that call in, have questions. I guess that's a 5 service to the American public. 6 MR. SCHUELKE: It certainly is. 7 THE WITNESS: We have a lot of people who 8 complain, call in or want to tell the President 9 something. 10 BY MR. GIUFFRA: 11 How many people do you have working for 0 12 you? 13 There are three permanent people. A 14 Who are they? O 15 A Helen Robinson is our receptionist, Milli 16 Alston answers the First Lady's mail plus part of the 17 President's mail, and Maureen Lewis, she answers the 18 President's mail. 19 Where do you have an office at the White 0 20 House? 21 A It is in the east wing on the second floor, 22 room 214. 8 1 Q Where are the rest of your staff located? 2 I have an office here and then there is an 3 outer office where the receptionist is and then 4 another big room where they are. 5 To whom do you report at the White House? 0 6 I am in the Oval operations. They call it 7 the Oval operations. Nancy Hernreich is over our 8 Oval operations. 9 O Ms. Hernreich is the President's assistant? 10 Α No. She is a deputy something to the 11 President. 12 Q She would be your immediate supervisor? 13 Α Yes. 14 0 You also report to Mrs. Clinton? 15 Α Yes. 16 O And to the President? 17 Yes. Α 18 Q Do you report to anyone else? 19 A No. 20 Q You don't report to Maggie Williams? 21 Α No. 22 0 Do you have an office within the residence

There is an office up there. I store files

This is the office on the third floor of

1

2

3

4

5

of the White House?

the White House?

up there.

0

9

6 Α Yes. sir. I believe we talked about this at your last 7 8 deposition. There is a desk in the office? 9 Yes. 10 0 It is approximately how large? 11 MR. KRAVITZ: The office or the desk? 12 MR. SCHUELKE: Hold on a second. When you use the term "office" on the third floor in the 13 14 residence, I think you need to specify because I'm 15 not sure that you and the witness are talking about the same space at the moment. 16 17 You recall in her earlier deposition she 18 testified concerning an office on the third floor in 19 the residence which had a closet? MR. GIUFFRA: Yes. 20 21 BY MR. GIUFFRA: 22 0 Is that the office you are referring to? 10 1 Α Yes 2 There is a room, it has a desk in it, and it also has this closet where the documents that were 3 4 in Mr. Foster's office were placed for some time? 5 Α 6 Approximately how large is that office? O 7 That room is probably around 12 by 15. I'm 8 not good at numbers. When you refer to the office you sometimes 9 use at the residence, that's the office? 10 11 Yes. I very rarely use that office. Approximately how often would you use that 12 0 13 office? 14 I would say last year I was not in it using it more than -- because my boxes are not even in that 15 room anymore. So, I was not really using it at all 16 17 in the last seven or eight months. Would you say occasionally? 18 0 19 Α Uh-huh, yes. 20 O Does Mrs. Clinton use that office? 21 Very rarely. She was using it doing her 22 book lately, but that is all she uses it for. It

11 1 really has a computer in it. Chelsea uses it to do 2 her lessons. 3 0 The boxes -- you testified previously that 4 there were some records of the Clintons, personal 5 financial records that were in the closet in that 6 office. Do you recall that? 7 Α Yes. 8 0 You have moved those records to your office 9 space? 10 No, sir. They are still on the third Α 11 floor. 12 0 They are still there. 13 MR. SCHUELKE: Not still there. 14 THE WITNESS: Not in that closet. They are 15 in another closet. 16 BY MR. GIUFFRA: 17 0 Where are those documents? 18 Α They are in another back area. They had to put in air conditioning ducts and they nailed up the 19 20 closet. 21 That closet has been sealed off? 0 22 Yes. Α 12 1 And you have another storage area that you use on the third floor of the residence? 2 3 Yes Α 4 0 Where is that storage area located? 5 Α You need to, I guess, have a picture of 6 this. 7 Do you think you could draw it out on a 8 piece of vellow pad? Yes. 9 10 MR. GIUFFRA: Mark this as Huber 11 Exhibit 1. 12 MR. SCHUELKE: Why don't I do it and see if 13 she will adopt it. MR. GIUFFRA: That's fine. 14 15 Let's stay off the record. 16 (Discussion off the record.) 17 BY MR. GIUFFRA: 18 In any event, there is another closet which 19 is located close to the room with the desk that you 20 now store the personal financial records of the

21

22

Clintons?

Α

Yes

13
1 Q Very briefly. In the late 1970s, you
2 worked as Mrs. Clinton's secretary?

worked as Mrs. Clinton's secretary?
 A I have never been her secretary.

4 Q Did you work with her at the Rose Law Firm?

4 Q Did you work with her at the Rose Law Firm

5 A Yes.

6

7

10

15

16

22

Q You were the firm administrator?

A I was from '81. Before that I was the

8 secretary to Mr. Bird and Mr. Rule when I first went9 there.

Q '81 to '82 you were the firm administrator?

11 A To '93 when I left.

12 Q Were you not also the administrator of the 13 governor's mansion in Little Rock?

14 A Two years, '79 and '80.

Q What was your position prior to becoming the administrator of the governor's mansion in Little

17 Rock?

18 A I went to the Rose Law Firm in April of 19 1976 and was there until December of 1978.

Q Did you work for Mrs. Clinton between 1976 and 1979 in any capacity?

A No, sir. I went to work at the governor's

14

1 mansion for her on January 10 of 1979.

Q What position did you hold at the Rose Law Firm between '76 and '79?

A I was a secretary to Allen Bird and Herbert Rule.

Q As firm administrator at the Rose Law Firm,what were your responsibilities?

8 A I was in charge of hiring all the support 9 staff.

10 Q Did you have any other responsibilities as 11 firm administrator?

12 A I ran the day-to-day operation. I had to 13 keep the maintenance people -- the building clean, 14 order furniture.

15 Q Did you have any responsibility for the 16 firm accounting department?

A No. We had an accountant in charge of the accounting department.

19 Q Did you have any responsibility for billing 20 of clients or maintaining client billing records?

21 A No.

17 18

22

Q Did you have any responsibility for

15 1 maintaining records generally of the law firm? 2 I maintained insurance records. 3 0 Did you maintain any other records? 4 Personnel files. Α 5 O Any other records beyond those two types of 6 records? 7 A No. 8 Did you have any other responsibilities at 0 9 the firm that you can recall generally? 10 Α No. 11 Now, when Mrs. Clinton became First Lady and left the Rose Law Firm, do you know what happened 12 13 to her records at the law firm? 14 Α No. 15 Do vou know whether any records were moved to Washington, D.C. that she had, personal files, 16 client files, any kind of files? 17 You mean from the Rose Law Firm? 18 Uh-huh. 19 0 20 No. I wasn't in charge of her files. Α 21 Who was in charge of her files? 22 She had a secretary. Α 16 1 Who was the person in charge of Mrs. Clinton's files? 2 3 Mrs. Alston. Α 4 O That's spelled --5 Α A-l-s-t-o-n. 6 0 Does she still work at the White House? 7 Yes. Α 8 Q What is her position? 9 Α She does personal correspondence for 10 Mrs. Clinton. 11 0 She works for you? 12 Α She is under me. We are all under the Oval 13 operations. 14 Ms. Alston would have been the person 15 responsible for moving any records that Mrs. Clinton 16 maintained at the Rose Law Firm to Washington, D.C.? 17 Yes. Α 18 Do you know whether Ms. Alston moved any 19 records from the Rose Law Firm to Washington, D.C. when the Clintons moved to Washington? 20 21 MR. SCHUELKE: How about subsequent?

THE WITNESS: Subsequent, we had two boxes

17 1 shipped up to Milli. 2 BY MR. GIUFFRA: 3 To Milli? O 4 That's her first name. Α 5 When were these boxes shipped from the Rose 0 6 Law Firm to Washington? 7 Α It was in '93. 8 In the middle of 1993? 0 9 I think it was Α 10 0 About the time Mr. Foster died or before? 11 A No, I don't remember. 12 MR. SCHUELKE: Let's go off the record a 13 second. (Discussion off the record.) 14 15 BY MR. GIUFFRA: 16 Your counsel just indicated he believed it 17 was in February. Does that sound correct? 18 Yes. Α 19 Early in the administration? 0 20 Yes, because -- that's right. Α 21 O Do you know why you think it was in February now? 22 18 I I am trying to remember back, the sequence 2 of it. Milli and I both came to work here February 3 1st. 4 The two boxes came shortly after you 0 5 arrived? 6 Yes. A 7 Were they sent by Federal Express? Q 8 A 9 0 Do you know what was contained in those 10 boxes? 11 A No. 12 Q But they were sent from the Rose Law Firm to the White House? 13 14 Α Yes. Do you know what happened to the contents 15 0 16 of those boxes? 17 We still have them in the boxes. Α 18 Do you maintain those boxes in your office? Q 19 Α Yes. In the east wing? 20 Q 21 Yes. A 22 Q Where does Mrs. Clinton maintain, if you

19 know, her business records from Arkansas? 1 2 What kind of business records? 3 For example, any files she might have 4 created when she was a lawyer at the Rose Law Firm. 5 I don't know. 6 MR. SCHUELKE: Meaning client files? 7 BY MR. GIUFFRA: 8 0 Client files. 9 I don't know. Α 10 Do you know where she keeps her diary? 0 11 Α 12 Where she might have kept her calendars? 0 13 Α No. 14 Did Mrs. Clinton maintain a calendar when 0 15 she was a lawyer at the Rose Law Firm? 16 I would not know. 17 Now, I believe you testified at your last 18 deposition that there were some files related to 19 Whitewater Development Corporation that you 20 maintained in the closet on the third floor of the 21 residence. 22 Yes, some canceled checks. 20 1 0 Were there any other files? 2 Α No. 3 Do you know how the boxes that were in the 4 third floor of the White House in the closet, how 5 they got to Washington? 6 I put them on the truck, the moving van. Α 7 There was a moving van that left the 8 governor's mansion? 9 Α Yes. 10 And came to the White House? 0 11 Α Yes. 12 Did you put any other boxes on the moving van that came from the governor's mansion to the 13 14 White House? 15 I packed up their personal belongings. 16 Those all came out. 17 Were there any documents or boxes with 18 documents in them that were shipped from Arkansas to 19 Washington that you are aware of? 20 I don't know. 21 MR. SCHUELKE: I'm sorry?

22

BY MR. GIUFFRA:

		21
1	Q Were there any boxes containing documents	
2	that were shipped from Arkansas to Washington by the	
3	Clintons?	
4	MR. SCHUELKE: Including what she has	
5	already indicated she put on the van herself?	
6	MR. GIUFFRA: Yes.	
7	MR. BEN-VENISTE: Would you know?	
8	THE WITNESS: No, I don't know anything	
9	about any documents. I mean what kind of documents,	
10	I don't know.	
11	MR. SCHUELKE: What sort of things were	
12	contained in the files you yourself put on the moving	
13	van?	
14	THE WITNESS: I put those five or six boxes	
15	I had of their financial records.	
16	MR. SCHUELKE: Which are documentary in	
17	form, I assume.	
18	THE WITNESS: Yes.	
19	BY MR. GIUFFRA:	
20	Q Where were the financial records maintained	
21	in Arkansas?	
22	A In the governor's mansion, in the residence	
		22
1	over there.	
-		
2	Q And who directed you to move those	
3	financial records from Arkansas to the White House in	
3 4	financial records from Arkansas to the White House in Washington?	
3 4 5	financial records from Arkansas to the White House in Washington? A I was in charge of the move, and I had	
3 4 5 6	financial records from Arkansas to the White House in Washington? A I was in charge of the move, and I had always maintained them. So I just knew to put them	
3 4 5 6 7	financial records from Arkansas to the White House in Washington? A I was in charge of the move, and I had always maintained them. So I just knew to put them on the truck.	
3 4 5 6 7 8	financial records from Arkansas to the White House in Washington? A I was in charge of the move, and I had always maintained them. So I just knew to put them on the truck. Q Do you know a man named David Kendall?	
3 4 5 6 7 8 9	financial records from Arkansas to the White House in Washington? A I was in charge of the move, and I had always maintained them. So I just knew to put them on the truck. Q Do you know a man named David Kendall? A Yes.	
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3 4 5 6 7 8 9 10 11 11 12 13 14 15 16 17 18	financial records from Arkansas to the White House in Washington? A I was in charge of the move, and I had always maintained them. So I just knew to put them on the truck. Q Do you know a man named David Kendall? A Yes. Q Have you met David Kendall? A Yes. Q When did you first meet David Kendall? A 1994. Q What were the circumstances under which you met Mr. Kendall? A I can't remember. Q Did he come and ask you about whether you knew the location of any documents that the First	
3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19	financial records from Arkansas to the White House in Washington? A I was in charge of the move, and I had always maintained them. So I just knew to put them on the truck. Q Do you know a man named David Kendall? A Yes. Q Have you met David Kendall? A Yes. Q When did you first meet David Kendall? A 1994. Q What were the circumstances under which you met Mr. Kendall? A I can't remember. Q Did he come and ask you about whether you knew the location of any documents that the First Family had or financial records?	
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3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19	financial records from Arkansas to the White House in Washington? A I was in charge of the move, and I had always maintained them. So I just knew to put them on the truck. Q Do you know a man named David Kendall? A Yes. Q Have you met David Kendall? A Yes. Q When did you first meet David Kendall? A 1994. Q What were the circumstances under which you met Mr. Kendall? A I can't remember. Q Did he come and ask you about whether you knew the location of any documents that the First Family had or financial records?	

		23
1	A Yes.	
2	Q Do you recall approximately when	
3	Mr. Kendall came to see you?	
4	A No. It seemed like it was I can't.	
5	Q Did Mr. Kendall indicate why he was coming	
6	to see you about financial records of the First	
7	Family?	
8	A It was one of the investigations that they	
9	were doing.	
0	Q And Mr. Kendall indicated that he needed	
1	your help in locating the documents?	
2	A Yes, because I was the one that knew where	
3	the documents were. I was the only one.	
4	Q What do you recall about the meeting that	
5	you had with Mr. Kendall? Did you take him to the	
6	documents?	
7	A I am not sure if I took him to the	
8	documents or if he told me what he needed and I	
9	pulled them out and copied them.	
20	Q Did Mr. Kendall give you a list of	
21	documents that he needed to obtain from the White	
22	House or records?	
1	A He didn't it wasn't in writing.	24
2	Q Did you take any notes of your conversation	
3	with Mr. Kendall?	
4	A No.	
5	Q Your best recollection would be that you	
6	pulled the records or that he went and pulled the	
7	records?	
8		
9	A No. that I did. He would not know.	
0	Q What did you do in order to pull the	
10 11	Q What did you do in order to pull the records that Mr. Kendall requested?	
	Q What did you do in order to pull the records that Mr. Kendall requested? A I would give it to him or make a copy and	
1	Q What did you do in order to pull the records that Mr. Kendall requested? A I would give it to him or make a copy and give it to him, what he needed.	
11	Q What did you do in order to pull the records that Mr. Kendall requested? A I would give it to him or make a copy and	
11 12 13	Q What did you do in order to pull the records that Mr. Kendall requested? A I would give it to him or make a copy and give it to him, what he needed. Q Were the records that you looked through	
11 12 13	Q What did you do in order to pull the records that Mr. Kendall requested? A I would give it to him or make a copy and give it to him, what he needed. Q Were the records that you looked through the records on the third floor in the boxes in the	
11 12 13 14	Q What did you do in order to pull the records that Mr. Kendall requested? A I would give it to him or make a copy and give it to him, what he needed. Q Were the records that you looked through the records on the third floor in the boxes in the closet?	
11 12 13 14 15	Q What did you do in order to pull the records that Mr. Kendall requested? A I would give it to him or make a copy and give it to him, what he needed. Q Were the records that you looked through the records on the third floor in the boxes in the closet? A Yes. Q Did you look through any other records, any other boxes or any other locations for records that	
11 12 13 14 15 16	Q What did you do in order to pull the records that Mr. Kendall requested? A I would give it to him or make a copy and give it to him, what he needed. Q Were the records that you looked through the records on the third floor in the boxes in the closet? A Yes. Q Did you look through any other records, any	

Q All the financial records were in the

financial records.

25 1 closet? 2 Α That's right. 3 0 When you met with Mr. Kendall, was 4 Mrs. Clinton present? 5 No. Α 6 0 Was anyone else present that you recall? 7 Α 8 Did someone tell you that Mr. Kendall would 0 9 be coming to see you? I can't remember. 10 11 Did Mrs. Clinton tell you that Mr. Kendall would be coming to see you about some records that 12 13 you had? 14 Α I can't remember. And you don't ever recall discussing 15 0 Mr. Kendall's request that you look for financial 16 records with Mrs. Clinton? 17 18 Α No. 19 0 And were the financial records that Mr. Kendall was looking for related to Whitewater 20 21 Development Corporation? 22 There were some records that we were 26 looking at trying to find some payments, checks. 1 2 Did you take Mr. Kendall up to the third floor of the residence at the White House, or did he 3 meet you in your office in the east wing? 4 He met me in the east wing, because I would 5 6 give it to him there, the copies. 7 You went through the boxes, looked for the documents that Mr. Kendall requested or the records 8 that Mr. Kendall requested, you made copies of them 9 and then you brought them to your office in the east 10 11 wing? 12 Yes Α 13 Did Mr. Kendall wait in the office of the east wing or did he come back a second time? 14 15 He didn't wait. I would send them over. 16 This also might have included the First Family's tax returns? 17

Q This also might have included the First
Family's tax returns?
A The tax returns are in those files. I
can't remember if he needed tax returns.
Q Do you recall how many times Mr. Kendall
came to visit you to ask about records of the First
Family?

18

19

20

27 1 Α No. 2 0 Did he come on more than one occasion? 3 I would say maybe two or three times. Α 4 0 Do you recall specifically the types of 5 records Mr. Kendall asked you to look for? It was usually just about payments. 6 7 So canceled checks? 0 8 Yes Α 9 And in looking for the records, did you 10 only look in the boxes that were maintained in the closet on the third floor of the residence? 11 12 Yes, because that is where they are. 13 Did Mr. Kendall ever ask you to look for records of the Rose Law Firm? 14 15 A No. And you don't recall ever discussing 16 looking for these records -- strike that. 17 You don't recall ever looking for the 18 19 records that Mr. Kendall was interested in with 20 Mrs. Clinton? 21 Α No. 22 Do you recall discussing your process for 28 looking for these records with anyone other than 1 2 Mr Kendall? 3 Α No. 4 So he was the only one you spoke to about 5 your search for these records? 6 Α Yes. 7 Do you know a woman named Jane Sherburne? I have met her. She is at the White House, 8 9 but I don't talk to her. 10 0 Do you know a woman by the name of Marian 11 Nimitz? I have just talked to her -- I don't know 12 13 whether I have talked to her or not. I know her 14 name. 15 0 Has anyone at the White House ever asked 16 you to look for any records, either in your office --17 we will start with that. In your office? 18 No. Α 19 Has anyone at the White House ever asked you to look for any records that you maintained of 20 21 the First Family up in their residence?

I don't know what the investigation was.

22

Α

29 I'm not privy to any of this stuff. I am the peon, I 1 think. But they were chasing down some case. I 2 don't know if it was Whitewater or what. I'm sure it 3 4 was. That they did not pay enough income taxes? Do 5 you remember the case? 6 Just tell us what you recall. 7 So, Mr. Podesta -- they would need some income tax records, and I went up and copied income 8 9 tax records, their returns, and took them to 10 Mr. Podesta's office. 11 Did Mr. Podesta contact you directly? 0 12 Α Yes. 13 And did Mrs. Clinton have any role in terms 14 of you looking for these records? 15 She was out of town. They just called to 16 ask me to look at them. 17 Do you recall any other occasions where 18 someone from the White House asked you to look for 19 any other records? 20 Α No 21 Q Do you recall any other occasions when someone from either Mr. Kendall or someone from his 22 30 1 office asked you to look for any records? 2 No. 3 MR. SCHUELKE: Indulge me for a moment. 4 (Pause.) 5 BY MR. GIUFFRA: 6 Do you have something else you would like 0 7 to tell us? 8 Yes. There were two people from Williams & 9 Connolly that came over and looked through those 10 boxes. 11 Do you recall when that was? O 12 A That was in the summer of '94. 13 By "those boxes," you mean --Q 14 Α My five boxes. 15 The boxes that were upstairs in the 0 16 residence of the White House? 17 Α Yes 18 0 Those boxes are banker-sized boxes? 19

Α

0

Α

inches high?

20

21

22

About like that, yes.

About say 2-1/2 feet long and maybe 18, 19

Yes. They came over to look through the

```
31
 1
    records.
 2
             Did they look through the records in the
        0
 3
    room on the third floor of the residence?
4
             Ves
5
             Was anyone present with them when they
 6
    looked through the records?
7
             It was Nicole and Sylvia. I was there
        A
8
    part-time.
9
        0
             Do you remember anyone else being there?
10
        Α
             No, no one else.
11
             They contacted you directly and said they
        0
12
    wanted to look at the records?
13
             Yes.
        Α
14
             Did you ever contact Mrs. Clinton about the
        0
15
    fact that they wanted to look at these records?
16
             No. Then there was another occasion when I
17
    was looking for another file drawer that I did find
    another Whitewater file that I turned over to David.
18
19
        0
             Where was that file found?
20
             In that room. There were some wooden
21
    filing cabinets in there. It was in one of the
    bottom drawers in there.
22
                                                              32
 1
             Were the wooden filing cabinets in the desk
 2
    or separate filing cabinets?
 3
             Separate filing cabinets.
 4
             What types of documents are stored in those
        0
 5
    filing cabinets?
 6
             It is like their personal, real personal
 7
    stuff like their wills, their marriage license,
 8
    Chelsea's medical records, that type thing. It is
 9
    just personal records.
10
        0
             Do those filing cabinets have a lock on
11
    them?
12
         Α
             They may. But they are not locked.
13
        Q
             They are not locked?
             No.
14
         Α
15
        0
             Do you recall approximately how big the
16
     file was?
17
        Α
             It was a Redwell file. It wasn't tied up,
18
     though.
19
              Approximately how large was the file?
         Q
20
         Α
              It didn't have --
```

21

22

Q

Α

A foot thick?

Was it legal size? I think it was letter

33 1 size. 2 About how deep was it? Q 3 It was just about like that (indicating). Α 4 Maybe an inch worth of documents? O 5 Α Yes. 6 0 Did you look to see what types of documents 7 were in the file? 8 I can't remember what was in there. It was 9 very insignificant. You don't recall what it was? 10 0 11 Α 12 0 When you found this particular file, did 13 you contact anyone? 14 I gave it to -- I called David up. Α 15 Do you recall when it was that you found 0 this document? 16 17 It was in '94. A: 18 In the middle of 1994? O 19 Just a minute. Do you remember the date? I don't remember the date. It was sometime 20 21 approximately around that time, in the middle of 22 1994. 34 Do you know whether anyone from Williams & 1 2 Connolly has looked through the wooden filing cabinets in that room on the third floor of the 3 4 residence? 5 Α No. 6 Have you ever looked through the 7 cabinets -- strike that. 8 Have you ever looked through the wooden 9 filing cabinets on the third floor of the White House 10 for documents that Mr. Kendall was looking for? 11 No. I didn't have any in there. Do you know whether Mrs. Clinton has ever 12 13 looked for documents that Mr. Kendall was looking for in connection with the investigations that are going 14

You don't think she has ever looked?

I don't know. I am not over there with

Are there any other locations where the

Oh. I don't know.

her, so I wouldn't know.

You don't know of any --

15

16

17

18

19

20

21 22 on?

A No.

Q

Α

0

Α

O

35 1 Clintons maintain personal records? 2 Not personal. Are you talking about what I 3 talked about, the --4 Either financial records --0 5 Α No. I keep all those. 6 Where are all sorts of records stored that 7 you know about? 8 I don't know. She has an office in the 9 west wing. I don't know what is in that office. 10 Does she also have an office in the east 11 wing, Mrs. Clinton? 12 No. Α 13 Where are the files containing the 14 President and Mrs. Clinton's personal correspondence 15 maintained? 16 They have --Α 17 MR. SCHUELKE: You mean the personal 18 correspondence which is managed by Ms. Huber's shop? 19 MR. GIUFFRA: Yes. 20 THE WITNESS: They have a place where that 21 goes. 22 MR. SCHUELKE: Who has a place? 36 1 THE WITNESS: It is a big staff of people. They keep it. We don't get to keep copies of it. 2 3 But Milli maintains Mrs. Clinton's personal files. 4 But the President's are maintained in this general 5 area. 6 BY MR. GIUFFRA: 7 Where is the President's personal 8 correspondence maintained? 9 It is Mr. -- there are two men. They are 10 career people. It is Mr. Johnson and -- I don't know the name of it. It is a records area where they keep 11 12 his. Is that in the west wing of the White 13 0 14 House?

are maintained in your office?
 A Milli does part of it. Her other
 secretary, Pam Cichetti, I'm sure has some.
 O Does Milli maintain certain files in your

Now, Mrs. Clinton's personal correspondence

The staff secretary's office?

Yes. Staff secretary.

15

16

17

18

Α

0

Α

Yes.

			31
1	area?		
2	Α	In her area.	
3	Q	Which is part of your office suite?	
4	Α	Yes.	
.5	Q	There are a number of file cabinets there?	
6	Α	Yes.	
7	Q	Do you know approximately how many file	
8		might be in your office suite where Milli	
9	maintair	s this correspondence?	
10	Α	I think she has about four files.	
11	Q	Cabinets?	
12	Α	Yes.	
13	Q	Four drawers in each cabinet?	
14	Α	Most of them.	
15	Q	Has Mr. Kendall or anyone from his office	
16		ked through, as far as you know, those file	
17	cabinets	for documents?	
18	Α	I have never seen him in there.	
19	Q	Do you think you would know if he came to	
20	look for	documents there?	
21	Α	I'm sure, yes.	
22	Q	Do you know whether anyone from the White	
			38
1		as looked for documents in those file cabinets	
2	that mig	tht be needed in these investigations that are	
2		tht be needed in these investigations that are n?	
2 3 4	that mig going or A	that be needed in these investigations that are n? You would have to ask someone, but not to	
2 3 4 5	that mig	the he needed in these investigations that are n? You would have to ask someone, but not to wledge.	
2 3 4 5 6	that mig going or A my know Q	th the needed in these investigations that are n? You would have to ask someone, but not to wledge. Either Milli or yourself would be the	
2 3 4 5 6 7	that mig going or A my know Q	the he needed in these investigations that are n? You would have to ask someone, but not to wledge.	
2 3 4 5 6 7 8	that mig going or A my know Q	th be needed in these investigations that are n? You would have to ask someone, but not to wledge. Either Milli or yourself would be the who would have They would have to ask Milli or me.	
2 3 4 5 6 7	that mig going of A my know Q person v A Q	th be needed in these investigations that are n? You would have to ask someone, but not to wledge. Either Milli or yourself would be the who would have They would have to ask Milli or me. You think you would probably know about it	
2 3 4 5 6 7 8	that mig going of A my know Q person v	the the needed in these investigations that are in? You would have to ask someone, but not to wledge. Either Milli or yourself would be the who would have They would have to ask Milli or me. You think you would probably know about it opened?	
2 3 4 5 6 7 8 9	that mig going of A my know Q person v A Q	th be needed in these investigations that are n? You would have to ask someone, but not to wledge. Either Milli or yourself would be the who would have They would have to ask Milli or me. You think you would probably know about it opened? Yes. Milli would have told me.	
2 3 4 5 6 7 8 9	that mig going of A my know Q person v A Q if it hap	the the needed in these investigations that are in? You would have to ask someone, but not to wledge. Either Milli or yourself would be the who would have They would have to ask Milli or me. You think you would probably know about it opened?	
2 3 4 5 6 7 8 9 10 11	that mig going of A my know Q person v A Q if it hap	th be needed in these investigations that are not not? You would have to ask someone, but not to wledge. Either Milli or yourself would be the who would have They would have to ask Milli or me. You think you would probably know about it opened? Yes. Milli would have told me. What types of documents are maintained in	
2 3 4 5 6 7 8 9 10 11 12	that mig going of A my know Q person v A Q if it hap A	th be needed in these investigations that are not not? You would have to ask someone, but not to wledge. Either Milli or yourself would be the who would have They would have to ask Milli or me. You think you would probably know about it opened? Yes. Milli would have told me. What types of documents are maintained in	
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2 3 4 5 6 7 8 9 10 11 12 13 14	that mig going of A my know Q person v A Q if it hap A Q those ca	th be needed in these investigations that are not not? You would have to ask someone, but not to wledge. Either Milli or yourself would be the who would have They would have to ask Milli or me. You think you would probably know about it opened? Yes. Milli would have told me. What types of documents are maintained in abinets? Just letters.	
2 3 4 5 6 7 8 9 10 11 12 13 14 15	that mig going of A my know Q person v A Q if it hap A Q those ca A	th be needed in these investigations that are in? You would have to ask someone, but not to wledge. Either Milli or yourself would be the who would have They would have to ask Milli or me. You think you would probably know about it opened? Yes. Milli would have told me. What types of documents are maintained in obinets? Just letters. From friends? Friends. Are these letters that are dated after the	
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2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19	that mig going of A my know Q person v A Q if it hap A Q those ca A Q Clintons and lett	And the second in these investigations that are in? You would have to ask someone, but not to wledge. Either Milli or yourself would be the who would have They would have to ask Milli or me. You think you would probably know about it opened? Yes. Milli would have told me. What types of documents are maintained in abinets? Just letters. From friends? Friends. Are these letters that are dated after the secame to Washington or are there also records ers that came since they have been to	
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	39	
1	were sent to Mrs. Clinton before she came to	
2	Washington would be kept?	
3	A I have some of them in my office in boxes	
4	packed away.	
5	Q In your office in the east wing?	
6	A Yes. But they are only personal letters	
7	from friends, handwritten letters from friends.	
8	Q Any typed letters?	
9	A No, I don't have them.	
10	Q Has anyone ever looked through those boxes	
11	for documents in connection with these	
12	investigations?	
13	A No.	
14	Q Have you ever received any notices from	
15	anyone at the White House asking you to look for	
16	documents that you might have that might be called	
17	for by the Whitewater investigation?	
18	A We get memos from Ms. Sherburne.	
19	Q Ms. Sherburne has never called you to look	
20	for documents?	
21	A No. We just get these memos.	
22	Q Have you ever looked for documents in	
	40	
1	response to Ms. Sherburne's memos?	
2		
2 3	response to Ms. Sherburne's memos? A Yes. We look for them when we get the memo.	
2 3 4	response to Ms. Sherburne's memos? A Yes. We look for them when we get the memo. Q Do you recall any occasions on which you	
2 3 4 5	response to Ms. Sherburne's memos? A Yes. We look for them when we get the memo. Q Do you recall any occasions on which you have looked for documents that Ms. Sherburne has	
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2 3 4 5 6 7 8 9 10 11 12 13 14 15 16	response to Ms. Sherburne's memos? A Yes. We look for them when we get the memo. Q Do you recall any occasions on which you have looked for documents that Ms. Sherburne has asked you to look for? A What did you say? Q Can you recall any instances when you got a memo from Ms. Sherburne and you went out and looked for documents that were discussed in the memo? A I would look around my office to see if I had anything. Q Do you recall doing that? A Yes. Q Do you recall ever finding anything that was called for by the memos?	
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2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19	response to Ms. Sherburne's memos? A Yes. We look for them when we get the memo. Q Do you recall any occasions on which you have looked for documents that Ms. Sherburne has asked you to look for? A What did you say? Q Can you recall any instances when you got a memo from Ms. Sherburne and you went out and looked for documents that were discussed in the memo? A I would look around my office to see if I had anything. Q Do you recall doing that? A Yes. Q Do you recall ever finding anything that was called for by the memos? A No. Q And the other people who worked for you have done the same thing?	
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2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19	response to Ms. Sherburne's memos? A Yes. We look for them when we get the memo. Q Do you recall any occasions on which you have looked for documents that Ms. Sherburne has asked you to look for? A What did you say? Q Can you recall any instances when you got a memo from Ms. Sherburne and you went out and looked for documents that were discussed in the memo? A I would look around my office to see if I had anything. Q Do you recall doing that? A Yes. Q Do you recall ever finding anything that was called for by the memos? A No. Q And the other people who worked for you have done the same thing?	

41 you have of Mrs. Clinton's personal correspondence 1 2 from Arkansas? We have a list of them, of those files that 3 4 are in those boxes. Milli does. 5 Have you ever looked through that list to 6 see whether there are any documents? She does, because Milli gets the same memos 7 that I get. 8 9 You think that Milli has looked through the 0 10 index? 11 Α Yes. 12 Do you know whether Milli has ever found 0 any documents that Ms. Sherburne wanted when she 13 looked through the indexes? 14 15 Not that I know of. 16 MR. SCHUELKE: What was the question? 17 MR. GIUFFRA: Read it back. (The reporter read the record as requested.) 18 MR. SCHUELKE: Do you know one way or the 19 20 other? 21 THE WITNESS: No. 22 BY MR. GIUFFRA: 42 The main reason you are here, Ms. Huber, 1 are these billing records. This is a copy that we 2 received from Mr. Kendall on January 5th. If you 3 could just in your own words describe how you found 4 5 these billing records. 6 Okay. I went up on the third floor. This 7 is called the book room, which is right around the corner from where the office, what we call the office 8 9 is. What is in the book room? 10 0 We have bookshelves all around with 11 personal books of the Clintons up on the shelves. We 12 13 have a huge table over in the middle and a closet this way, a couple file cabinets over here. In the 14 middle we have a big table where we keep knickknacks 15 on, books and knickknacks piled up. 16 17 Who uses the book room? 0 18 Nobody uses it. It is just a storage area. Everything is piled up in there. 19 Who goes into the book room? 20 21 I go in there occasionally when I need to

22

get in my file cabinet.

43 1 Do you know of anybody else who goes into 0 2 the book room? 3 Α Ms. Marshall goes in there. 4 O Who is Ms. Marshall? 5 She works for Mrs. Clinton. Α 6 What is her first name? 0 7 Α Capricia. 8 0 Does Ms. Marshall work in the west wing or 9 east wing? She has an office down the hall from me in 10 A 11 the east wing. 12 What is her position? Q 13 Α She is a personal assistant. 14 0 What type of work does Ms. Marshall do for 15 Mrs. Clinton? 16 She gets the hairdressers and getting 17 clothes. She just does everything. She is just --18 Is there anything else that Ms. Marshall 19 does for Mrs. Clinton? 20 She does all sorts, goes around when she is 21 having meetings to help her get through the crowds 22 when they have meetings in the White House. 44 1 And Ms. Marshall reports directly to 2 Mrs. Clinton? 3 Α Yes. 4 0 Does she report also to Ms. Williams at 5 all? 6 I'm not sure. Α 7 She definitely works directly for O 8 Mrs. Clinton? 9 A Yes. 10 Can you think of anyone else who sometimes 11 goes into the book room? 12 No, other than the maids and the butlers and the people that work on that floor. The people 13 14 that take care of the flowers, the National Park 15 Service, they go through there. 16 As far as you know, does President Clinton 17 ever go through the book room? 18 I'm sure he goes through there because the 19 exercise room is right by it. 20 Is the exercise room connected to the book 0 21 room?

You go in the book room and there is a door

22

Α

45 and the exercise room is in there. 1 2 In order to go to the exercise room, you 3 have to go through the book room? 4 Go through the book room. Α 5 0 There is a little gym in the exercise room? 6 Α Yes. Does he use that gym? 7 0 8 Α Sometimes. 9 O Does Mrs. Clinton use that gym? 10 Α I think she uses it sometimes. And also house guests use it sometimes. 11 12 Mrs. Clinton goes into the book room on 13 occasion? 14 Α I'm sure they go in there to get their 15 books. They have a lot of books in there. They go 16 to get a book out to read it. I'm sure the President 17 does too. 18 Can you think of anyone else who goes into 0 19 the book room? 20 Α No. 21 0 Does Ms. Maggie Williams go into the book 22 room? 46 I don't know. 1 Α 2 Now, the President and Mrs. Clinton's 3 personal quarters, are they on the second floor of 4 the White House? 5 Yes. Third floor is also their quarters. A 6 Q But their primary quarters --7 Are on the second floor. Α 8 O Are there any other rooms that are 9 connected to the book room? 10 Well, you go out the hall and down that way 11 and then there is the valets. That is where they do 12 their work. 13 O Does Mrs. Clinton sometimes work in the 14 book room? 15 No. She worked occasionally --16 occasionally I would see her in the office on the 17 third floor, but very rarely. That would be her office that had the 18 closet that you put the boxes in? 19 20 Yes, sir. Α

You would describe that as Mrs. Clinton's

21

22

0

office?

47 1 Α Yes. 2 0 And that office is right near the book 3 room? 4 Α Yes. You come around here and it is right 5 here. 6 0 Right around the corner. 7 Uh-huh. Α 8 O You mentioned that there were some cabinets 9 in the book room --10 Α I have a file cabinet in there. 11 0 One file cabinet? 12 Two file cabinets. Α 13 Are they metal? 0 Yes. One is one we brought from Arkansas. 14 Α What sort of documents are in that? 15 Q 16 Α Maps and magazines and newspaper articles. 17 MR. KRAVITZ: Can I ask one question? 18 MR. GIUFFRA: Sure. 19 MR. KRAVITZ: The office you have described 20 as Mrs. Clinton's office on the third floor, is that 21 the office where the six boxes used to be or where 22 they are now? 48 THE WITNESS: Yes, used to be. They sealed 1 2 up the closet last summer. 3 MR. SCHUELKE: Same space you have also 4 described today as where Chelsea does her homework 5 and where there is a computer in there? 6 THE WITNESS: Yes. It has been in there a 7 year now. They got the computer in '94 for 8 Christmas, and it has been there a year. 9 BY MR. GIUFFRA: 10 The file cabinets that would be in the book room, they have maybe old newspaper clippings about 11 12 the President? 13 Yes, and the First Lady. They are very 14 old. We brought lots of them from Arkansas. 15 Q Are there any records or any documents in there? 16 17 Α I have another cabinet in there where I have all their personal stuff, like their marriage 18 19 license, their visas and that type thing. 20 Visa bills? Q 21 No. Α

You mean visas to leave the country?

22

49 1 A Yes, passports. 2 I thought the marriage license was in the 3 other file cabinet 4 A I don't have that anymore. I had to move 5 it out and --6 MS. FISHER: This is the wooden file 7 cabinet? 8 THE WITNESS: Yes. It is gone now. They 9 needed the space for the computer. 10 BY MR GILIFFRA: 11 O Have you ever seen Ms. Williams in the book 12 room? 13 Yes. Sometime, it seemed like it was in 14 late August, when she was helping on the book. 15 Q August of 1995? 16 Yes, because they put -- in that room they Α 17 put computers in there and there were a lot of people 18 in there working. 19 MR. SCHUELKE: Working on? 20 THE WITNESS: Working on the book. 21 BY MR. GIUFFRA: 22 Mrs. Clinton's book that just came out? 50 Yes. 1 Α 2 0 Just so the record is clear, the personal 3 financial records of the Clintons, where are they 4 maintained today? In a closet in the hallway? 5 You mean the ones that are real current 6 right now? 7 0 No. The boxes that you had that used to be 8 in --9 Those are still in that back closet that I 10 told you about, through the maids' quarters. It is 11 in the back, where Hank and I can't draw you the 12 picture. 13 They are moved from the closet in her 14 office to another closet located near the book room? 15 No. This is back where the maids are. It is a different area. There are a lot of different 16 17 areas. That's why it is so hard to describe it. I haven't been up there yet. 18 19 MR. SCHUELKE: Isn't it true you have to go 20 through the book room to get to that area?

THE WITNESS: No. There are two big doors

there where the solarium is and it is clear to the

21

back. It is in the back. They call it "over the
 portico" is what they call it. That area is over the
 portico. That's why I said it was on the
 Pennsylvania side. That's what the ushers call it.

BY MR. GIUFFRA:

Q Ms. Huber, why don't we now go back to telling us how you found these.

A Back in the summer, early August, I went up to get these magazine articles out, newspaper articles, packed them all up in boxes to take to my office to catalogue them.

Q This would be early --

A August.

Q This would be August of 1995?

15 A Yes, sir.

Q So, sometime in the first week or two of

17 August? 18 A

1 2

A Yes. I don't remember the date.

MR. BEN-VENISTE: Off the record.

(Discussion off the record.)

THE WITNESS: I went up to get these

22 magazines and newspaper articles because I have a

volunteer that catalogues them. She puts them all in boxes and makes labels for them. While I was up there --

BY MR. GIUFFRA:

Q Okay. Go ahead, keep going.

A While I was up there, I was picking this stuff up and putting it in the boxes. There was another box on the table. It had some pictures that I don't know who they are, because we get tons of gifts of pictures, knickknacks. They were in this box. I knew I needed to take those to my office so I could catalogue those to send them to archives or wherever they needed to go to. There were lots of books on this table. It was piled with books and knickknacks lying right there on the corner when I started to go to get everything to go, and I looked and these documents were -- can I fix them for you?

O Yes.

A They were like this sitting right up like that (indicating). So I picked them up, threw them down in the box and called the ushers to come help me carry these boxes to my office.

	53	
1	Q The documents that we are talking about	
2	bears Bates number DKSN 28928 through DKSN 029043.	
3	MR. BEN-VENISTE: I presume you are showing	
4	the witness a copy of the documents.	
5	BY MR. GIUFFRA:	
6	Q These are the documents we received from	
7	Mr. Kendall. This is a copy of the documents you	
8	found?	
9	A Found?	
10	MR. SCHUELKE: Look through them.	
11	THE WITNESS: I don't know anything about	
12	the Bates stamp. That must be David's. That was not	
13	on there when I saw them.	
14	(Witness examined the document.)	
15	This looks like a copy of what I had.	
16	BY MR. GIUFFRA:	
17	Q The documents that you found were different	
18	than these?	
19	A They were Xeroxed but a little bit	
20	different Xerox looking. They were the same. They	
21	are the same document, but the Xerox is a different	
22	color.	
	54	
1	MR. SCHUELKE: What was different about	
2	it?	
3		
	THE WITNESS: The Xerox was better than	
4	that.	
5	that. BY MR. GIUFFRA:	
5 6	that. BY MR. GIUFFRA: Q It was a little darker?	
5 6 7	that. BY MR. GIUFFRA: Q It was a little darker? A That's it.	
5 6 7 8	that. BY MR. GIUFFRA: Q It was a little darker? A That's it. MR. SCHUELKE: Any other different color?	
5 6 7 8 9	that. BY MR. GIUFFRA: Q It was a little darker? A That's it. MR. SCHUELKE: Any other different color? THE WITNESS: No.	
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5 6 7 8 9 10 11 12 13 14 15 16 17 18 19	that. BY MR. GIUFFRA: Q It was a little darker? A That's it. MR. SCHUELKE: Any other different color? THE WITNESS: No. BY MR. GIUFFRA: Q You didn't have the actual computer pages? A No. I just had a copy. Q They were white pages with this copied on top of them, but the copy was better? A Uh-huh. Q Now, I want to go back through the whole thing. Do you recall whether for example, on this page DKSN 028933, there is some handwriting in red. A Yes.	
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5 6 7 8 9 10 11 12 13 14 15 16 17 18 19	that. BY MR. GIUFFRA: Q It was a little darker? A That's it. MR. SCHUELKE: Any other different color? THE WITNESS: No. BY MR. GIUFFRA: Q You didn't have the actual computer pages? A No. I just had a copy. Q They were white pages with this copied on top of them, but the copy was better? A Uh-huh. Q Now, I want to go back through the whole thing. Do you recall whether for example, on this page DKSN 028933, there is some handwriting in red. A Yes.	

When you first found the documents? 1 0 2 When I first found the documents, I didn't look through this. When I opened it up and saw it, 3 that's all I did. When I saw "Madison Guaranty," I 4 5 had a sinking feeling. 6 MR. SCHUELKE: When? 7 THE WITNESS: In my office on January 4th. 8 MR. SCHUELKE: I think the questions now 9 relate to the time in early August. THE WITNESS: Is that what you are talking 10 11 about? BY MR. GIUFFRA: 12 Q When you first saw the documents, they were 13 14 folded up. 15 A Like this. They were folded in half and you couldn't 16 17 see what they were. Did you do anything with the 18 documents? 19 A No. I just picked it up like this, threw 20 it down in that box. I didn't open it. 21 And then you had the boxes taken --O 22 A To my office in the east wing. 56 1 0 Who took the boxes to your office? 2 The ushers have these maintenance people 3 and they send them up with their carts and they 4 hauled them over there for me and put them on the 5 floor. 6 Q In your office? 7 Yes. Α 8 That was the floor under your desk? O 9 It was at the side of my desk. I moved in A 10 a table later on over the top of them. They were 11 under this table. 12 About how many boxes did you move to your 0 13 office? 14 Α I'm sure I had about five or six at that 15 time. 16 0 Were these boxes like the boxes that were 17 in the closet? 18 Some of them were just boxes like you would get stuff in. They were like storage boxes like you 19 get canned goods in or something. They were all just 20

22 don't use my bankers boxes for carrying stuff.

21

boxes like that. They were not bankers boxes. I

		3 /
1	MR. SCHUELKE: Off the record.	
2	(Discussion off the record.)	
3	BY MR. GIUFFRA:	
4	Q Let's go back to early August 1995. Now,	
5	on the day when you went to the book room, did	
6	someone tell you to go there and clean up the room?	
7	A No. I just do that periodically, go up.	
8	But that day I was going to get these magazine	
9	articles because I have a volunteer that takes care	
10	of them. She needed some work. So, I went up to get	
11	them to bring down for her to work.	
12	Q These were magazine articles from Arkansas?	
13	A They are some we have gotten since we have	
14	been at the White House. It is magazine articles and	
15	papers, articles about the Clintons. They keep their	
16	magazines.	
17	Q They keep	
18	A If you were featured in an article, you	
19	know.	
20	MR. KRAVITZ: Bob doesn't have any interest	
21	in that stuff.	
22	THE WITNESS: That's what I'm talking	
		58
1	about. I have a volunteer that makes labels,	
2	catalogues them, puts them in boxes so we can keep	
3	them.	
4	BY MR. GIUFFRA:	
5	Q Keep them for the presidential library?	
6	A That's right.	
7	Q Do the President and Mrs. Clinton sometimes	
8	put these articles in the file cabinets?	
9	A No, they don't. But they will be sent up	
10	to that table and I will pick them up and put them in	
11	there.	
12	Q Is there like an in-box where these things	
13	are kept?	
14	A No. They just end up up there.	
15	Q On the big table?	
16		
16	A Yes.	
17	Q How big is the table in this book room?	
17 18	Q How big is the table in this book room? A It is about an 8 by	
17 18 19	Q How big is the table in this book room? A It is about an 8 by MR. SCHUELKE: The question is how big was	
17 18 19 20	Q How big is the table in this book room? A It is about an 8 by MR. SCHUELKE: The question is how big was the table in the book room.	
17 18 19	Q How big is the table in this book room? A It is about an 8 by MR. SCHUELKE: The question is how big was	

59 1 August of 1995? 2 It was about 8 feet long. Α 3 About how wide? 0 4 Α About 5 feet. 5 Normally were there things on top of the 0 6 table? 7 Yes. Books. They get lots of books. So, 8 we had books on it all the time, lots of books. Trying to catalogue them, to see -- a lot of them we 9 10 store. Some we give away. Some we try to put up on the shelf. There are numerous knickknacks they get 11 12 when they go on travel trips or just all the time 13 people are sending them stuff. It ends up up there. Then we have a closet that we will sort out the gifts 14 15 and put them up in the closet. 16 So, it is a regular process for you --Yes, of moving in and out stuff. 17 Α 18 It is a regular process to take the 19 magazines and have your volunteers take those and the 20 gifts and sort those too? 21 Α Yes. 22 This is sort of a weigh station? Q 60 1 Α Yes, it is. It is just a catch-all. 2 In early August 1995 when you went to the 3 book room, the day you found these records, were you 4 by yourself? 5 Yes. Α 6 Do you recall if it was early in the day or O 7 late in the day? 8 It was probably in the morning, because I 9 usually go over in the morning and try to get it, 10 because my volunteer was there that day. 11 About how often would you go to the book 12 room and remove things and bring them down to your 13 office? 14 It would depend on how much stuff had piled Α 15 up. 16 0 Is this something you do on a weekly basis? 17 No, not on a weekly basis. Maybe every two A 18 months or monthly.

Every month or two months?

Yes. It is not -- there is no set time to

Had you been -- you found these documents,

19

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21

22

Q

A

0

do it.

		61
1	this document, sometime in early August. Had you	
2	been in the book room the day before or the day	
3	before that? Do you recall the last time you were in	
4	the book room?	
5	A I can't remember how long before that I had	
6	been in there.	
7	Q Within a week maybe?	
8	A Probably.	
9	Q How often do you think you normally go into	
10	the book room?	
11	A Maybe if we just phrase it like this, in	
12	the last two or three months I haven't even been in	
13	there over two or three times.	
14	Q Say in the period July-August 1995.	
15	A I probably wasn't in there more than two or	
16	three times during that time of the year.	
17	MR. SCHUELKE: Two or three times?	
18	THE WITNESS: In that two-month period,	
19	July and August.	
20	BY MR. GIUFFRA:	
21	Q Now, just to go through the story once	
22	again so we are all clear about it, you went into the	
		62
1	book room. Did you have some boxes with you?	
_		
2	A Yes. I got those boxes from my office and	
3		
	A Yes. I got those boxes from my office and	
3	A Yes. I got those boxes from my office and brought them with me.	
3	A Yes. I got those boxes from my office and brought them with me. Q Did you carry the boxes up there yourself?	
3 4 5	A Yes. I got those boxes from my office and brought them with me. Q Did you carry the boxes up there yourself? A Yes.	
3 4 5 6	A Yes. I got those boxes from my office and brought them with me. Q Did you carry the boxes up there yourself? A Yes. Q You brought the boxes up there and you	
3 4 5 6 7	A Yes. I got those boxes from my office and brought them with me. Q Did you carry the boxes up there yourself? A Yes. Q You brought the boxes up there and you started taking newspaper articles and things out of	
3 4 5 6 7 8	A Yes. I got those boxes from my office and brought them with me. Q Did you carry the boxes up there yourself? A Yes. Q You brought the boxes up there and you started taking newspaper articles and things out of the file cabinets?	
3 4 5 6 7 8 9	A Yes. I got those boxes from my office and brought them with me. Q Did you carry the boxes up there yourself? A Yes. Q You brought the boxes up there and you started taking newspaper articles and things out of the file cabinets? A Yes.	
3 4 5 6 7 8 9	A Yes. I got those boxes from my office and brought them with me. Q Did you carry the boxes up there yourself? A Yes. Q You brought the boxes up there and you started taking newspaper articles and things out of the file cabinets? A Yes. Q And then did you take the box and put it on	
3 4 5 6 7 8 9 10 11	A Yes. I got those boxes from my office and brought them with me. Q Did you carry the boxes up there yourself? A Yes. Q You brought the boxes up there and you started taking newspaper articles and things out of the file cabinets? A Yes. Q And then did you take the box and put it on top of the table?	
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3 4 5 6 7 8 9 10 11 12 13	A Yes. I got those boxes from my office and brought them with me. Q Did you carry the boxes up there yourself? A Yes. Q You brought the boxes up there and you started taking newspaper articles and things out of the file cabinets? A Yes. Q And then did you take the box and put it on top of the table? A No. There was one up there on top of the table that had	
3 4 5 6 7 8 9 10 11 12 13 14	A Yes. I got those boxes from my office and brought them with me. Q Did you carry the boxes up there yourself? A Yes. Q You brought the boxes up there and you started taking newspaper articles and things out of the file cabinets? A Yes. Q And then did you take the box and put it on top of the table? A No. There was one up there on top of the table that had Q Did you put the box up there?	
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63 1 A No, I'm sure it was not. 2 0 There was a box on top of the table? 3 A 4 0 Do you recall what was in the box? 5 Α It had a picture about like that 6 (indicating.) 7 0 A picture of what? 8 Α I don't know who they were. 9 0 But of people? 10 Α Uh-huh Was it in a frame? 11 0 12 Α Uh-huh. 13 It was a picture in a frame in a box? 0 14 Α 15 Was there anything else in the box? 0 There were some other little old knickknack 16 17 things. 18 Like gifts maybe? Q 19 Α Yes, gifts but I can't recall what they 20 were. 21 0 Was there anything else in the box? 22 Α I can't remember if there was anything else 64 1 or not. 2 And where were the records? 0 3 Α They were just on top of the table, just 4 lying there. 5 0 Just lying on the table by themselves? 6 Just on top of the stuff that was in Α 7 there. 8 O You mean they were on top of the box, in 9 the box? 10 No, they weren't in the box. They were Α just like on top of the knickknacks. 11 There were other knickknacks on the table 12 0 13 as well? 14 Α Yes, and books. So the table was fairly cluttered with 15 0 16 items? 17 Yes Α 18 0 The records were folded over in half? 19 Just sitting there like that. They stayed

flatter than that. Yours don't stay very flat.

were they directly on the table?

Were the records on top of some books or

20

21

		65
1	A It was on top of books, because there were	
2	stacks of stuff up there. It was just laid up	
3	there.	
4	Q Do you recall, was it on a high stack or a	
5	short stack of books?	
6	A It was probably like that.	
7	Q About a foot high stack?	
8	A Yes.	
9	Q Were there other books stacked around?	
10	A There would be all over the table books and	
11	knickknacks.	
12	Q Were the records in the middle of the	
13	table?	
14	A No. They were kind of on the end.	
15	Q On one of the ends of the table?	
16	A Yes.	
17	Q Were the records in a place where you could	
18	see them when you approached the table or were they	
19	sort of back?	
20	A No. You could see when you walked in.	
21	Q When you walked in the book room, the	
22	records were there?	
		66
1	A You could see the paper	66
1 2	A You could see the paper. O If somebody walked into the book room, they	66
2	Q If somebody walked into the book room, they	66
2 3		66
2 3 4	Q If somebody walked into the book room, they would have seen these records? A Yes.	66
2 3 4 5	Q If somebody walked into the book room, they would have seen these records? A Yes. Q And you had never seen these records in the	66
2 3 4	Q If somebody walked into the book room, they would have seen these records? A Yes. Q And you had never seen these records in the book room before this day in early August 1995?	66
2 3 4 5 6	Q If somebody walked into the book room, they would have seen these records? A Yes. Q And you had never seen these records in the book room before this day in early August 1995? A Not to my knowledge.	66
2 3 4 5 6 7	Q If somebody walked into the book room, they would have seen these records? A Yes. Q And you had never seen these records in the book room before this day in early August 1995? A Not to my knowledge.	66
2 3 4 5 6 7 8	Q If somebody walked into the book room, they would have seen these records? A Yes. Q And you had never seen these records in the book room before this day in early August 1995? A Not to my knowledge. Q After you discovered the records which were	66
2 3 4 5 6 7 8 9	Q If somebody walked into the book room, they would have seen these records? A Yes. Q And you had never seen these records in the book room before this day in early August 1995? A Not to my knowledge. Q After you discovered the records which were folded up, you stuck them in the box?	66
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2 3 4 5 6 7 8 9 10 11	Q If somebody walked into the book room, they would have seen these records? A Yes. Q And you had never seen these records in the book room before this day in early August 1995? A Not to my knowledge. Q After you discovered the records which were folded up, you stuck them in the box? A I stuck them down in the box. Q You never opened them up?	66
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		67
1	A The individual ones were stuck together.	
2	Like the individual matters had lots of staples in	
3	them. This would be stapled on top of this, like the	
4	backup sheets if you had a bill behind it.	
5	Q They weren't held together with any rubber	
6	band or a clip?	
7	A No.	
8	MR. KRAVITZ: Are you asking her about	
9	observations she made about these records when she	
10	actually looked at them in January or observations in	
11	early August 1995?	
12	MR. GIUFFRA: We are focusing in early	
13	August 1995.	
14	MR. KRAVITZ: It may be she did not make	
15	those observations at that time.	
16	THE WITNESS: I picked them up like that.	
17	BY MR. GIUFFRA:	
18	Q You don't recall if there was a clip?	
19	A I don't recall a clip being on there.	
20	Q When you pulled them out of the box in	
21 22	January, do you recall A There was not a clip on them.	
1.1.	A There was not a clip on them.	
		68
		68
1	Q Definitely not a clip.	68
1 2	Q Definitely not a clip. A No.	68
1	Q Definitely not a clip.	68
1 2 3	Q Definitely not a clip. A No. Q You don't believe there was a clip?	68
1 2 3 4	Q Definitely not a clip. A No. Q You don't believe there was a clip? A No.	68
1 2 3 4 5	Q Definitely not a clip. A No. Q You don't believe there was a clip? A No. Q Were the Clintons at the White House in August 1995, do you recall? A I don't recall. I don't recall their	68
1 2 3 4 5 6	Q Definitely not a clip. A No. Q You don't believe there was a clip? A No. Q Were the Clintons at the White House in August 1995, do you recall?	68
1 2 3 4 5 6 7 8 9	Q Definitely not a clip. A No. Q You don't believe there was a clip? A No. Q Were the Clintons at the White House in August 1995, do you recall? A I don't recall. I don't recall their schedule. Q Didn't they go to I guess it was	68
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1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18	Q Definitely not a clip. A No. Q You don't believe there was a clip? A No. Q Were the Clintons at the White House in August 1995, do you recall? A I don't recall. I don't recall their schedule. Q Didn't they go to I guess it was Wyoming. A They went on their vacation. Q That was in late August? A It seems like it was. Q They hadn't started on their vacation? A I'm not sure if they were traveling. They travel and are in and out all the time. I don't see them that often. Q Just so we are clear, you saw the records	68
1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19	Q Definitely not a clip. A No. Q You don't believe there was a clip? A No. Q Were the Clintons at the White House in August 1995, do you recall? A I don't recall. I don't recall their schedule. Q Didn't they go to I guess it was Wyoming. A They went on their vacation. Q That was in late August? A It seems like it was. Q They hadn't started on their vacation? A I'm not sure if they were traveling. They travel and are in and out all the time. I don't see them that often. Q Just so we are clear, you saw the records and they were sort of toward the end of the table?	68
1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20	Q Definitely not a clip. A No. Q You don't believe there was a clip? A No. Q Were the Clintons at the White House in August 1995, do you recall? A I don't recall. I don't recall their schedule. Q Didn't they go to I guess it was Wyoming. A They went on their vacation. Q That was in late August? A It seems like it was. Q They hadn't started on their vacation? A I'm not sure if they were traveling. They travel and are in and out all the time. I don't see them that often. Q Just so we are clear, you saw the records and they were sort of toward the end of the table? A Yes, about like that (indicating).	68
1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19	Q Definitely not a clip. A No. Q You don't believe there was a clip? A No. Q Were the Clintons at the White House in August 1995, do you recall? A I don't recall. I don't recall their schedule. Q Didn't they go to I guess it was Wyoming. A They went on their vacation. Q That was in late August? A It seems like it was. Q They hadn't started on their vacation? A I'm not sure if they were traveling. They travel and are in and out all the time. I don't see them that often. Q Just so we are clear, you saw the records and they were sort of toward the end of the table?	68

```
69
 1
        Α
             Yes.
2
        0
             Near a corner of the table?
3
        Α
             Yes.
 4
        0
             Would it be toward the middle of the table?
 5
        Α
             Right like this (indicating). About like
6
    that.
 7
             Was it sort of toward the end of the table?
        0
 8
        Α
             Exactly where I am right now.
9
             That is about a foot in from the corner of
        0
    the table.
10
11
             Yes
        Α
12
        0
             Maybe not. 6 or 7 inches. Do you want to
13
    say how far?
14
        Α
             I'm not good at figures.
15
            MR. SCHUELKE: 6 to 8 inches looks like a
16
    reasonable estimate to me.
17
            BY MR. GIUFFRA:
18
             And you folded them up and put them in
19
    the --
20
        A
             I didn't fold them up. They were folded.
21
             You took them and stuck the records into
        0
22
    the box?
                                                            70
 1
        A
             Yes.
 2
        0
             Was there a top on the box?
 3
        Α
            No.
 4
        0
            It was just an open box?
 5
        Α
             Just an open box, yes.
             You don't recall ever discussing with
 6
        0
 7
    Mrs. Clinton -- strike that.
 8
            Do you recall seeing Mrs. Clinton in early
    August 1995 when you found these records?
 9
            No. I didn't see her.
10
11
            MR. KRAVITZ: What do you mean by "when she
12
     found the records"?
            MR. SCHUELKE: Was she there in the room?
13
14
     Is that what you mean?
15
            BY MR. GIUFFRA:
16
           On the day when you first found the records
17
     in early August 1995, do you recall seeing
18
     Mrs. Clinton at any time that day?
19
        Α
             No.
20
            MR. GIUFFRA: Do you want to take a break?
21
            THE WITNESS: No.
22
            MR. GIUFFRA: If at any time you want a
```

		71
1	break, let us know.	
2	BY MR. GIUFFRA:	
3	Q Ms. Huber, you don't recall looking at	
4	these records in early August 1995?	
5	A No, I did not.	
6	MR. BEN-VENISTE: That's what she testified	
7	three or four times to.	
8	THE WITNESS: I did not look at them.	
9	BY MR. GIUFFRA:	
10	Q Do you know why you didn't look at them?	
11	A I didn't think it was anything to look at.	
12	I just thought it was some old papers. I didn't even	
13	know where they came from. I just thought that's	
14	something I will need to file and put up, like I do	
15	all the rest of the stuff we have here in this room.	
16	Q You didn't think maybe you should look at	
17	them before you put them in the box?	
18	A No, no.	
19	Q Was the copy paper the same quality as this	
20	quality paper? Was it relatively new copy paper?	
21	A Oh, I don't know. I don't have any idea.	
22	Q Do you recall whether it had been	
		72
1	discolored at all?	72
2	A No. It was white.	72
2 3		72
2 3 4	A No. It was white.	72
2 3 4 5	A No. It was white. Q Just plain white copy paper? A Yes. Q Were the records the same size as this that	72
2 3 4	A No. It was white. Q Just plain white copy paper? A Yes.	72
2 3 4 5 6 7	A No. It was white. Q Just plain white copy paper? A Yes. Q Were the records the same size as this that we received from Mr. Kendall? A Yes, 11 by 17.	72
2 3 4 5 6	A No. It was white. Q Just plain white copy paper? A Yes. Q Were the records the same size as this that we received from Mr. Kendall?	72
2 3 4 5 6 7 8 9	A No. It was white. Q Just plain white copy paper? A Yes. Q Were the records the same size as this that we received from Mr. Kendall? A Yes, 11 by 17.	72
2 3 4 5 6 7 8 9	A No. It was white. Q Just plain white copy paper? A Yes. Q Were the records the same size as this that we received from Mr. Kendall? A Yes, 11 by 17. Q How do you know it is 11 by 17?	72
2 3 4 5 6 7 8 9 10	A No. It was white. Q Just plain white copy paper? A Yes. Q Were the records the same size as this that we received from Mr. Kendall? A Yes, 11 by 17. Q How do you know it is 11 by 17? A Because that's the size of paper that you	72
2 3 4 5 6 7 8 9 10 11 12	A No. It was white. Q Just plain white copy paper? A Yes. Q Were the records the same size as this that we received from Mr. Kendall? A Yes, 11 by 17. Q How do you know it is 11 by 17? A Because that's the size of paper that you can print them on in a Xerox machine or computer paper. MR. KRAVITZ: You are talking to someone	72
2 3 4 5 6 7 8 9 10 11 12 13	A No. It was white. Q Just plain white copy paper? A Yes. Q Were the records the same size as this that we received from Mr. Kendall? A Yes, 11 by 17. Q How do you know it is 11 by 17? A Because that's the size of paper that you can print them on in a Xerox machine or computer paper. MR. KRAVITZ: You are talking to someone who has worked in a law firm for a long time, Bob.	72
2 3 4 5 6 7 8 9 10 11 12	A No. It was white. Q Just plain white copy paper? A Yes. Q Were the records the same size as this that we received from Mr. Kendall? A Yes, 11 by 17. Q How do you know it is 11 by 17? A Because that's the size of paper that you can print them on in a Xerox machine or computer paper. MR. KRAVITZ: You are talking to someone who has worked in a law firm for a long time, Bob. BY MR. GIUFFRA:	72
2 3 4 5 6 7 8 9 10 11 12 13	A No. It was white. Q Just plain white copy paper? A Yes. Q Were the records the same size as this that we received from Mr. Kendall? A Yes, 11 by 17. Q How do you know it is 11 by 17? A Because that's the size of paper that you can print them on in a Xerox machine or computer paper. MR. KRAVITZ: You are talking to someone who has worked in a law firm for a long time, Bob. BY MR. GIUFFRA: Q Is there a copy machine on the third floor	72
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16	A No. It was white. Q Just plain white copy paper? A Yes. Q Were the records the same size as this that we received from Mr. Kendall? A Yes, 11 by 17. Q How do you know it is 11 by 17? A Because that's the size of paper that you can print them on in a Xerox machine or computer paper. MR. KRAVITZ: You are talking to someone who has worked in a law firm for a long time, Bob. BY MR. GIUFFRA: Q Is there a copy machine on the third floor of the residence of the White House?	72
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17	A No. It was white. Q Just plain white copy paper? A Yes. Q Were the records the same size as this that we received from Mr. Kendall? A Yes, 11 by 17. Q How do you know it is 11 by 17? A Because that's the size of paper that you can print them on in a Xerox machine or computer paper. MR. KRAVITZ: You are talking to someone who has worked in a law firm for a long time, Bob. BY MR. GIUFFRA: Q Is there a copy machine on the third floor of the residence of the White House? A No. We don't have a copy machine.	72
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18	A No. It was white. Q Just plain white copy paper? A Yes. Q Were the records the same size as this that we received from Mr. Kendall? A Yes, 11 by 17. Q How do you know it is 11 by 17? A Because that's the size of paper that you can print them on in a Xerox machine or computer paper. MR. KRAVITZ: You are talking to someone who has worked in a law firm for a long time, Bob. BY MR. GIUFFRA: Q Is there a copy machine on the third floor of the residence of the White House? A No. We don't have a copy machine. Q Is there a copy machine in the east wing	72
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19	A No. It was white. Q Just plain white copy paper? A Yes. Q Were the records the same size as this that we received from Mr. Kendall? A Yes, 11 by 17. Q How do you know it is 11 by 17? A Because that's the size of paper that you can print them on in a Xerox machine or computer paper. MR. KRAVITZ: You are talking to someone who has worked in a law firm for a long time, Bob. BY MR. GIUFFRA: Q Is there a copy machine on the third floor of the residence of the White House? A No. We don't have a copy machine. Q Is there a copy machine in the east wing that does 11 by 17 copies?	72
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20	A No. It was white. Q Just plain white copy paper? A Yes. Q Were the records the same size as this that we received from Mr. Kendall? A Yes, 11 by 17. Q How do you know it is 11 by 17? A Because that's the size of paper that you can print them on in a Xerox machine or computer paper. MR. KRAVITZ: You are talking to someone who has worked in a law firm for a long time, Bob. BY MR. GIUFFRA: Q Is there a copy machine on the third floor of the residence of the White House? A No. We don't have a copy machine. Q Is there a copy machine in the east wing that does 11 by 17 copies? A No, ours doesn't do that. The one we had	72
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21	A No. It was white. Q Just plain white copy paper? A Yes. Q Were the records the same size as this that we received from Mr. Kendall? A Yes, 11 by 17. Q How do you know it is 11 by 17? A Because that's the size of paper that you can print them on in a Xerox machine or computer paper. MR. KRAVITZ: You are talking to someone who has worked in a law firm for a long time, Bob. BY MR. GIUFFRA: Q Is there a copy machine on the third floor of the residence of the White House? A No. We don't have a copy machine. Q Is there a copy machine in the east wing that does 11 by 17 copies? A No, ours doesn't do that. The one we had then did not. I don't know about the new one we got,	72
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20	A No. It was white. Q Just plain white copy paper? A Yes. Q Were the records the same size as this that we received from Mr. Kendall? A Yes, 11 by 17. Q How do you know it is 11 by 17? A Because that's the size of paper that you can print them on in a Xerox machine or computer paper. MR. KRAVITZ: You are talking to someone who has worked in a law firm for a long time, Bob. BY MR. GIUFFRA: Q Is there a copy machine on the third floor of the residence of the White House? A No. We don't have a copy machine. Q Is there a copy machine in the east wing that does 11 by 17 copies? A No, ours doesn't do that. The one we had	72

```
73
1
    big or not.
2
            MR. SCHUELKE: When did you get the new
3
    one?
4
            THE WITNESS: I can't remember when we got
5
    it. We had a Xerox in there, a little one. We have
    a small copier. If you need to make big copies, you
6
7
    need to go to another place. We can make letter size
8
    copies.
9
            BY MR GIUFFRA:
10
            Ms. Huber, again, I don't want to get into
    the diagram business again. The table was located in
11
12
    the middle of the room?
13
        Α
            Yes
            MR. SCHUELKE: Was.
14
15
            BY MR. GIUFFRA:
16
        0
            This is in August of '95?
17
        A
             Sort of centered in the middle of the room?
18
        O
19
        Α
             Yes.
20
        O
             How big is the book room?
21
            THE WITNESS: Do you know, Hank, how big
22
    that is?
                                                           74
1
            MR. SCHUELKE: Off the record.
2
            (Discussion off the record.)
3
            BY MR. GIUFFRA:
4
        O
           Does that sound right?
5
            It is about 12 by 25.
        A
6
             And other than the bookcases -- are they
        0
7
    all the way around the room?
8
        Α
             Yes
9
        O
            Then this table is in the middle of the
10
    room?
11
        Α
            Yes
12
            MR. GIUFFRA: Off the record.
13
            (Discussion off the record.)
14
             (Huber Exhibit 1 identified.)
15
            BY MR. GIUFFRA:
             I have attempted to draw a rectangle 12 by
16
17
    25 and then I have put a table in the middle and the
18
    bookcases around the room. If you could just draw
19
    the entrances to the room. Put a little line where
20
    the entrances would be.
21
             (Witness complied.)
22
        0
             Where would another one be?
```

			75
1	Α	There is a door here, but it is not	
2	operable	•	
3	Q	Just the doors that are operable.	
4	À	There is a hallway that goes right down	
5	this way	and there is a door that comes in here, and	
6		ator is back there, and there are valet rooms	
7	here.		
8	Q	There is another door here?	
9	Α	Yes.	
10	Q	Mark that as a door.	
11	Α	(Witness complied.) There is the maid's;	
12	Anita th	e maid is in here. She irons tablecloths.	
13	Q	Where is the exercise room?	
14	Α	It is here.	
15	Q	Where is the door to that?	
16	Α	It is right here.	
17	Q	Why don't you put a door there.	
18	Α	Yes. (Witness complied.)	
19	Q	Where were the records found on the table?	
20	Α	About right here (indicating).	
21	Q	Where you made the X?	
22	Α	Yes.	
		100.	
			76
1	Q	If the President wanted to use the exercise	76
1 2	Q room, w	If the President wanted to use the exercise which door would he normally go through?	76
1 2 3	Q room, w A	If the President wanted to use the exercise which door would he normally go through? Right here.	76
1 2 3 4	Q room, w A Q	If the President wanted to use the exercise which door would he normally go through? Right here. Put an arrow leading down there.	76
1 2 3 4 5	Q room, w A Q A	If the President wanted to use the exercise which door would he normally go through? Right here. Put an arrow leading down there. Okay. (Witness complied.)	76
1 2 3 4 5 6	Q room, w A Q A Q	If the President wanted to use the exercise which door would he normally go through? Right here. Put an arrow leading down there. Okay. (Witness complied.) The records were found on the corner of the	76
1 2 3 4 5 6 7	Q room, w A Q A Q table cle	If the President wanted to use the exercise which door would he normally go through? Right here. Put an arrow leading down there. Okay. (Witness complied.) The records were found on the corner of the osest to the door, the two doors which you	76
1 2 3 4 5 6 7 8	Q room, w A Q A Q table clowould w	If the President wanted to use the exercise which door would he normally go through? Right here. Put an arrow leading down there. Okay. (Witness complied.) The records were found on the corner of the osest to the door, the two doors which you use to go to the exercise room; is that right?	76
1 2 3 4 5 6 7 8	Q room, w A Q A Q table clowould w A	If the President wanted to use the exercise which door would he normally go through? Right here. Put an arrow leading down there. Okay. (Witness complied.) The records were found on the corner of the exercise to the door, the two doors which you use to go to the exercise room; is that right? This is where you enter from the hallway	76
1 2 3 4 5 6 7 8 9	Q room, w A Q A Q table clo would u A and then	If the President wanted to use the exercise which door would he normally go through? Right here. Put an arrow leading down there. Okay. (Witness complied.) The records were found on the corner of the cosest to the door, the two doors which you use to go to the exercise room; is that right? This is where you enter from the hallway in you would go in there to go there.	76
1 2 3 4 5 6 7 8 9 10	Q room, w A Q A A Q table cle would u A and then Q	If the President wanted to use the exercise which door would he normally go through? Right here. Put an arrow leading down there. Okay. (Witness complied.) The records were found on the corner of the cosest to the door, the two doors which you use to go to the exercise room; is that right? This is where you enter from the hallway in you would go in there to go there. Where were the file cabinets in the room?	76
1 2 3 4 5 6 7 8 9 10 11 12	Q room, w A Q A Q table cle would u A and then Q A	If the President wanted to use the exercise which door would he normally go through? Right here. Put an arrow leading down there. Okay. (Witness complied.) The records were found on the corner of the cosest to the door, the two doors which you use to go to the exercise room; is that right? This is where you enter from the hallway in you would go in there to go there. Where were the file cabinets in the room? I have a file cabinet here.	76
1 2 3 4 5 6 7 8 9 10 11 12 13	Q room, w A Q A Q table clowould w A and there Q A Q	If the President wanted to use the exercise which door would he normally go through? Right here. Put an arrow leading down there. Okay. (Witness complied.) The records were found on the corner of the cosest to the door, the two doors which you use to go to the exercise room; is that right? This is where you enter from the hallway in you would go in there to go there. Where were the file cabinets in the room? I have a file cabinet here. Put down right on the thing "file."	76
1 2 3 4 5 6 7 8 9 10 11 12 13 14	Q room, w A Q A Q table clowould w A and there Q A Q A	If the President wanted to use the exercise which door would he normally go through? Right here. Put an arrow leading down there. Okay. (Witness complied.) The records were found on the corner of the cosest to the door, the two doors which you use to go to the exercise room; is that right? This is where you enter from the hallway in you would go in there to go there. Where were the file cabinets in the room? I have a file cabinet here. Put down right on the thing "file." There are bookcases here.	76
1 2 3 4 5 6 7 8 9 10 11 12 13 14 15	Q room, w A Q A Q table clowould w A and there Q A Q A Q	If the President wanted to use the exercise which door would he normally go through? Right here. Put an arrow leading down there. Okay. (Witness complied.) The records were found on the corner of the cosest to the door, the two doors which you use to go to the exercise room; is that right? This is where you enter from the hallway in you would go in there to go there. Where were the file cabinets in the room? I have a file cabinet here. Put down right on the thing "file." There are bookcases here. Why don't you mark the bookcases as well.	76
1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16	Q room, w A Q A Q table clowould w A and there Q A Q C They go	If the President wanted to use the exercise which door would he normally go through? Right here. Put an arrow leading down there. Okay. (Witness complied.) The records were found on the corner of the cosest to the door, the two doors which you use to go to the exercise room; is that right? This is where you enter from the hallway in you would go in there to go there. Where were the file cabinets in the room? I have a file cabinet here. Put down right on the thing "file." There are bookcases here. Why don't you mark the bookcases as well. On all the way around the room?	76
1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17	Q room, w A Q A Q table clowould w A and there Q A Q C They go A	If the President wanted to use the exercise which door would he normally go through? Right here. Put an arrow leading down there. Okay. (Witness complied.) The records were found on the corner of the cosest to the door, the two doors which you use to go to the exercise room; is that right? This is where you enter from the hallway in you would go in there to go there. Where were the file cabinets in the room? I have a file cabinet here. Put down right on the thing "file." There are bookcases here. Why don't you mark the bookcases as well. of all the way around the room? This is a closet right here. It is where	76
1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18	Q room, w A Q A Q table cle would u A and then Q A Q They go A we put	If the President wanted to use the exercise which door would he normally go through? Right here. Put an arrow leading down there. Okay. (Witness complied.) The records were found on the corner of the cosest to the door, the two doors which you use to go to the exercise room; is that right? This is where you enter from the hallway in you would go in there to go there. Where were the file cabinets in the room? I have a file cabinet here. Put down right on the thing "file." There are bookcases here. Why don't you mark the bookcases as well. of all the way around the room? This is a closet right here. It is where the store the knickknacks when we get around to	76
1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19	Q room, w A Q A Q table cle would u A and then Q A Q They go A we put sorting	If the President wanted to use the exercise which door would he normally go through? Right here. Put an arrow leading down there. Okay. (Witness complied.) The records were found on the corner of the osest to the door, the two doors which you use to go to the exercise room; is that right? This is where you enter from the hallway in you would go in there to go there. Where were the file cabinets in the room? I have a file cabinet here. Put down right on the thing "file." There are bookcases here. Why don't you mark the bookcases as well. In all the way around the room? This is a closet right here. It is where the store the knickknacks when we get around to them out, some of them. Then there is a	76
1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20	Q room, w A Q A Q table cle would u A and ther Q A Q They go A we put sorting bookcas	If the President wanted to use the exercise which door would he normally go through? Right here. Put an arrow leading down there. Okay. (Witness complied.) The records were found on the corner of the cosest to the door, the two doors which you use to go to the exercise room; is that right? This is where you enter from the hallway anyou would go in there to go there. Where were the file cabinets in the room? I have a file cabinet here. Put down right on the thing "file." There are bookcases here. Why don't you mark the bookcases as well. O all the way around the room? This is a closet right here. It is where store the knickknacks when we get around to them out, some of them. Then there is a see here, a bookcase here.	76
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Yes, we had them built in since we have 1 2 been there. 3 0 Do you have any idea as to how frequently 4 Mrs. Clinton would be in the book room during the 5 period, say, August 1995, July-August 1995? 6 I have no idea. 7 Have you ever seen her in the book room? 0 8 MR. KRAVITZ: In that time period? 9 BY MR. GIUFFRA: 10 During that time period. Q 11 Α I cannot remember seeing her there during 12 that time frame. 13 If she wanted to use the exercise room, she 14 would go through the book room? 15 Α Yes. 16 0 Do you know how often she works out in the 17 exercise room? 18 A No. 19 MR. BEN-VENISTE: You mean in August of 20 1995? 21 MR. GIUFFRA: Yes. 22 THE WITNESS: I do not. 78 1 BY MR. GIUFFRA: 2 0 Is she someone who works out on a regular 3 basis? 4 A I don't know. 5 Now, taking us back to August of 1995, you 6 don't believe that these records were on the corner 7 of the table in the book room the last time you were 8 in the book room other than before you came and saw 9 them? 10 MR. SCHUELKE: The last time prior to this 11 occasion she described in August of '95? 12 MR. GIUFFRA: I will rephrase the 13 question. 14 BY MR. GIUFFRA: 15 Prior to this occasion in early August 1995 16 when you put the records into the box, you don't 17 recall ever seeing these records in the book room? 18 A No. I do not. 19 Q What would be your best estimate as to the 20 time previous to August, early August 1995 when you 21 were last in the book room? A week, two weeks, a

22

month before?

		79
1	A It might have been a week. I can't	
2	remember if I was in there a week or 10 days or	
3	what.	
4	Q About a week or 10 days before?	
5	A Probably.	
6	Q You are fairly sure the records were not on	
7	the corner of the desk?	
8	A I did not see them.	
9	Q Do you think you would have seen the	
10	records?	
11	A Yes, I would have.	
12	Q Why do you think you would have seen the	
13	records?	
14	A Because I probably would have been in there	
15	to have picked up something.	
16	Q Are there any records maintained by the	
17	White House of how often you go to the third floor of	
18	the residence?	
19	A I don't know whether they keep a record of	
20	it or not.	
21	Q You don't know whether there is a record	
22	kept	
		80
1	A I know my name is on a list that I can go	80
1 2	A I know my name is on a list that I can go up and down all the time, that they don't have to	80
	up and down all the time, that they don't have to	80
2		80
2 3	up and down all the time, that they don't have to call and have somebody go with me. But I don't know if they keep a record of it.	80
2 3 4 5	up and down all the time, that they don't have to call and have somebody go with me. But I don't know if they keep a record of it.	80
2 3 4	up and down all the time, that they don't have to call and have somebody go with me. But I don't know if they keep a record of it. Q Do you know if Maggie Williams is on that list?	80
2 3 4 5 6 7	up and down all the time, that they don't have to call and have somebody go with me. But I don't know if they keep a record of it. Q Do you know if Maggie Williams is on that list? A I don't know who is on the list. It is	80
2 3 4 5 6	up and down all the time, that they don't have to call and have somebody go with me. But I don't know if they keep a record of it. Q Do you know if Maggie Williams is on that list? A I don't know who is on the list. It is maintained by the Secret Service. They know me.	80
2 3 4 5 6 7 8	up and down all the time, that they don't have to call and have somebody go with me. But I don't know if they keep a record of it. Q Do you know if Maggie Williams is on that list? A I don't know who is on the list. It is	80
2 3 4 5 6 7 8 9	up and down all the time, that they don't have to call and have somebody go with me. But I don't know if they keep a record of it. Q Do you know if Maggie Williams is on that list? A I don't know who is on the list. It is maintained by the Secret Service. They know me. Q Have you ever seen Maggie Williams strike that.	80
2 3 4 5 6 7 8 9	up and down all the time, that they don't have to call and have somebody go with me. But I don't know if they keep a record of it. Q Do you know if Maggie Williams is on that list? A I don't know who is on the list. It is maintained by the Secret Service. They know me. Q Have you ever seen Maggie Williams strike that. In July-August 1995, did you ever see	80
2 3 4 5 6 7 8 9 10	up and down all the time, that they don't have to call and have somebody go with me. But I don't know if they keep a record of it. Q Do you know if Maggie Williams is on that list? A I don't know who is on the list. It is maintained by the Secret Service. They know me. Q Have you ever seen Maggie Williams strike that. In July-August 1995, did you ever see Maggie Williams in the book room?	80
2 3 4 5 6 7 8 9 10 11 12	up and down all the time, that they don't have to call and have somebody go with me. But I don't know if they keep a record of it. Q Do you know if Maggie Williams is on that list? A I don't know who is on the list. It is maintained by the Secret Service. They know me. Q Have you ever seen Maggie Williams strike that. In July-August 1995, did you ever see Maggie Williams in the book room? A Late August I saw her up there.	80
2 3 4 5 6 7 8 9 10 11 12 13	up and down all the time, that they don't have to call and have somebody go with me. But I don't know if they keep a record of it. Q Do you know if Maggie Williams is on that list? A I don't know who is on the list. It is maintained by the Secret Service. They know me. Q Have you ever seen Maggie Williams strike that. In July-August 1995, did you ever see Maggie Williams in the book room? A Late August I saw her up there. Q When you saw Ms. Williams in late August,	80
2 3 4 5 6 7 8 9 10 11 12 13 14	up and down all the time, that they don't have to call and have somebody go with me. But I don't know if they keep a record of it. Q Do you know if Maggie Williams is on that list? A I don't know who is on the list. It is maintained by the Secret Service. They know me. Q Have you ever seen Maggie Williams strike that. In July-August 1995, did you ever see Maggie Williams in the book room? A Late August I saw her up there. Q When you saw Ms. Williams in late August, what was she doing in the book room?	80
2 3 4 5 6 7 8 9 10 11 12 13 14 15	up and down all the time, that they don't have to call and have somebody go with me. But I don't know if they keep a record of it. Q Do you know if Maggie Williams is on that list? A I don't know who is on the list. It is maintained by the Secret Service. They know me. Q Have you ever seen Maggie Williams strike that. In July-August 1995, did you ever see Maggie Williams in the book room? A Late August I saw her up there. Q When you saw Ms. Williams in late August, what was she doing in the book room? A By then they had moved the table out and	80
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16	up and down all the time, that they don't have to call and have somebody go with me. But I don't know if they keep a record of it. Q Do you know if Maggie Williams is on that list? A I don't know who is on the list. It is maintained by the Secret Service. They know me. Q Have you ever seen Maggie Williams strike that. In July-August 1995, did you ever see Maggie Williams in the book room? A Late August I saw her up there. Q When you saw Ms. Williams in late August, what was she doing in the book room? A By then they had moved the table out and put in the two tables for the computers to be in	80
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17	up and down all the time, that they don't have to call and have somebody go with me. But I don't know if they keep a record of it. Q Do you know if Maggie Williams is on that list? A I don't know who is on the list. It is maintained by the Secret Service. They know me. Q Have you ever seen Maggie Williams strike that. In July-August 1995, did you ever see Maggie Williams in the book room? A Late August I saw her up there. Q When you saw Ms. Williams in late August, what was she doing in the book room? A By then they had moved the table out and	80
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2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19	up and down all the time, that they don't have to call and have somebody go with me. But I don't know if they keep a record of it. Q Do you know if Maggie Williams is on that list? A I don't know who is on the list. It is maintained by the Secret Service. They know me. Q Have you ever seen Maggie Williams strike that. In July-August 1995, did you ever see Maggie Williams in the book room? A Late August I saw her up there. Q When you saw Ms. Williams in late August, what was she doing in the book room? A By then they had moved the table out and put in the two tables for the computers to be in there. They were working on the book. Q The book room was the room Mrs. Clinton	80

Q 1

		01
1	that were in the book room.	
2	Q Mrs. Clinton did her work on the book in	
3	the office that had the closet where the Foster	
4	documents were kept?	
5	A Yes.	
6	Q Other people used the book room?	
7	A Yes, because it had two computers in it.	
8	Q When did you learn that other people would	
9	be using the book room?	
10	MR. BEN-VENISTE: Wait a minute. The	
11	Foster documents weren't kept there at that time. I	
12	think that is a little confusing, your question. The	
13	Foster documents were up there long before.	
14	BY MR. GIUFFRA:	
15	Q The same room where the Foster documents	
16	were stored.	
17	A Where my financial documents were.	
18	Q When did you learn that the book room would	
19	be used by the people who would be assisting	
20	Mrs. Clinton with her book?	
21	A I didn't learn it until I went up there and	
22	saw them there. Nobody consulted me.	
		82
1	Q Nobody told you to clean out the book room?	82
2	Q Nobody told you to clean out the book room? A No. I always tried to keep things that I	82
2 3	A No. I always tried to keep things that I knew that I needed to take care of out of there.	82
2 3 4	A No. I always tried to keep things that I	82
2 3 4 5	A No. I always tried to keep things that I knew that I needed to take care of out of there.	82
2 3 4 5 6	A No. I always tried to keep things that I knew that I needed to take care of out of there. Q Have you ever seen Susan Thomases in the	82
2 3 4 5 6 7	A No. I always tried to keep things that I knew that I needed to take care of out of there. Q Have you ever seen Susan Thomases in the book room? A No. Q Have you ever seen Susan Thomases in	82
2 3 4 5 6 7 8	A No. I always tried to keep things that I knew that I needed to take care of out of there. Q Have you ever seen Susan Thomases in the book room? A No. Q Have you ever seen Susan Thomases in Mrs. Clinton's office?	82
2 3 4 5 6 7	A No. I always tried to keep things that I knew that I needed to take care of out of there. Q Have you ever seen Susan Thomases in the book room? A No. Q Have you ever seen Susan Thomases in Mrs. Clinton's office? A What office?	82
2 3 4 5 6 7 8	A No. I always tried to keep things that I knew that I needed to take care of out of there. Q Have you ever seen Susan Thomases in the book room? A No. Q Have you ever seen Susan Thomases in Mrs. Clinton's office?	82
2 3 4 5 6 7 8 9	A No. I always tried to keep things that I knew that I needed to take care of out of there. Q Have you ever seen Susan Thomases in the book room? A No. Q Have you ever seen Susan Thomases in Mrs. Clinton's office? A What office?	82
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		83
1	A I just was picking up stuff and it was a	
2	big package of stuff, so I remember it.	
3	Q This was unusual, different than the normal	
4	things you would be putting into boxes?	
5	A No, because a lot of times I would be	
6	putting in books and papers, newspapers, magazine	
7	articles, that type thing.	
8	Q There is no particular reason why you	
9	recall putting these in but you definitely recalled	
10	putting these into the box?	
11	A I knew they needed to be filed. I thought	
12	somebody put it there for me to file, so I stuck it	
13	down in my box to take back to my office to file.	
14	MR. GIUFFRA: Why don't we mark these	
15	pictures as exhibits. These are copies,	
16	Mr. Schuelke? Are these our copies?	
17	MR. SCHUELKE: They are photographs. You	
18	can have them. Knock yourself out.	
19	(Huber Exhibits 2 through 8 identified.)	
20	BY MR. GIUFFRA:	
21	Q The box that contained we will call it the	
22	Rose billing records, you maintained that in your	
-		
		84
1	office from early August 1995 until January 4, 1996?	84
1 2	office from early August 1995 until January 4, 1996? A Yes, sir.	84
1 2 3	office from early August 1995 until January 4, 1996? A Yes, sir. Q And as far as you know, the billing records	84
1 2 3 4	office from early August 1995 until January 4, 1996? A Yes, sir. Q And as far as you know, the billing records were there the entire time?	84
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1 2 3 4 5 6	office from early August 1995 until January 4, 1996? A Yes, sir. Q And as far as you know, the billing records were there the entire time? A Yes. Q Now, why don't you describe for the record	84
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			85
1	Q	Why were you horrified?	
2	Α	Because I knew that it was documents that	
3	were nee		
4	Q	Why did you know that they were documents	
5	that wer	e needed?	
6	A	Because we had had subpoenas about Madison	
7	before.		
8	Q	And you had spoken with Mr. Kendall about	
9	-	as regarding Madison?	
10	A	I'm not sure if I ever spoke to David. I	
11	_	bpoena about it.	
12	Q		
13	A	Yes.	
14	Q	Did you ever talk to Mrs. Clinton about	
15		subpoenas?	
16		No. So, I was so surprised that that's	
17	what it		
18	Q	They were still folded over in the box?	
19	. A	Yes. I pulled them out because I was	
20		stuff out of the box and was going to put it	
21		as so surprised because I couldn't believe	
22	that's w	hat it was.	
			06
1	0	What did you do next?	86
1	Q	What did you do next?	86
2	A	The next thing I did was just sit there a	86
2 3	A minute.	The next thing I did was just sit there a Then I called David Kendall.	86
2 3 4	A minute.	The next thing I did was just sit there a Then I called David Kendall. And then what happened next?	86
2 3 4 5	A minute. Q A	The next thing I did was just sit there a Then I called David Kendall. And then what happened next? I couldn't get David right then. So he	86
2 3 4 5 6	A minute. Q A called m	The next thing I did was just sit there a Then I called David Kendall. And then what happened next? I couldn't get David right then. So he he back, and I asked him to come to my office	86
2 3 4 5 6 7	A minute. Q A called m because	The next thing I did was just sit there a Then I called David Kendall. And then what happened next? I couldn't get David right then. So he he back, and I asked him to come to my office I wanted to show him a document I found.	86
2 3 4 5 6 7 8	A minute. Q A called m because	The next thing I did was just sit there a Then I called David Kendall. And then what happened next? I couldn't get David right then. So he he back, and I asked him to come to my office I wanted to show him a document I found. Do you recall what time of day?	86
2 3 4 5 6 7 8 9	A minute. Q A called m because Q A	The next thing I did was just sit there a Then I called David Kendall. And then what happened next? I couldn't get David right then. So he the back, and I asked him to come to my office. I wanted to show him a document I found. Do you recall what time of day? It was close up until noontime.	86
2 3 4 5 6 7 8 9	A minute. Q A called m because Q A Q	The next thing I did was just sit there a Then I called David Kendall. And then what happened next? I couldn't get David right then. So he he back, and I asked him to come to my office. I wanted to show him a document I found. Do you recall what time of day? It was close up until noontime. When did Mr. Kendall call you back?	86
2 3 4 5 6 7 8 9 10	A minute. Q A called m because Q A Q A	The next thing I did was just sit there a Then I called David Kendall. And then what happened next? I couldn't get David right then. So he he back, and I asked him to come to my office. I wanted to show him a document I found. Do you recall what time of day? It was close up until noontime. When did Mr. Kendall call you back? It was probably about an hour before he	86
2 3 4 5 6 7 8 9 10 11 12	A minute. Q A called m because Q A Q A could co	The next thing I did was just sit there a Then I called David Kendall. And then what happened next? I couldn't get David right then. So he he back, and I asked him to come to my office. I wanted to show him a document I found. Do you recall what time of day? It was close up until noontime. When did Mr. Kendall call you back? It was probably about an hour before he he bene by.	86
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2 3 4 5 6 7 8 9 10 11 12 13 14 15	A minute. Q A called m because Q A Q A could co Q A Q the time	The next thing I did was just sit there a Then I called David Kendall. And then what happened next? I couldn't get David right then. So he he back, and I asked him to come to my office. I wanted to show him a document I found. Do you recall what time of day? It was close up until noontime. When did Mr. Kendall call you back? It was probably about an hour before he he ome by. So about 1:00? I would think so. Now, between the time that you called he that you found the documents and Mr. Kendall	86
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2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17	A minute. Q A called m because Q A Q A could co Q A Q the time coming	The next thing I did was just sit there a Then I called David Kendall. And then what happened next? I couldn't get David right then. So he he back, and I asked him to come to my office. I wanted to show him a document I found. Do you recall what time of day? It was close up until noontime. When did Mr. Kendall call you back? It was probably about an hour before he he been by. So about 1:00? I would think so. Now, between the time that you called he that you found the documents and Mr. Kendall over at 1:00, did you call anyone else?	86
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18	A minute. Q A called m because Q A Q A could co Q A Q the time coming A	The next thing I did was just sit there a Then I called David Kendall. And then what happened next? I couldn't get David right then. So he he back, and I asked him to come to my office I wanted to show him a document I found. Do you recall what time of day? It was close up until noontime. When did Mr. Kendall call you back? It was probably about an hour before he he bene by. So about 1:00? I would think so. Now, between the time that you called he that you found the documents and Mr. Kendall over at 1:00, did you call anyone else? No, I did not.	86
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2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20	A minute. Q A called m because Q A Q A could co Q A Q the time coming A Q A	The next thing I did was just sit there a Then I called David Kendall. And then what happened next? I couldn't get David right then. So he he back, and I asked him to come to my office I wanted to show him a document I found. Do you recall what time of day? It was close up until noontime. When did Mr. Kendall call you back? It was probably about an hour before he home by. So about 1:00? I would think so. Now, between the time that you called he that you found the documents and Mr. Kendall hover at 1:00, did you call anyone else? No, I did not. You didn't call your lawyer? I called him after David, yes.	86

87 1 O Did not call the First Lady? 2 Α No. 3 And you stayed in your office the entire O time? 4 5 Α Yes. Q Did you advise anyone in your office about 6 7 the discovery of these records? A No. I didn't. 8 9 Did Mr. Kendall advise you not to call 0 10 anvone? He didn't advise me, no. I just knew I 11 Α shouldn't. I didn't want to say anything about it. 12 What did Mr. Kendall say to you when you 13 first told him about the records? 14 He just said that he would call me back 15 16 after he left. 17 Q When you first told him that you found these records --18 19 I didn't even tell him on the telephone what I wanted. I just said David, would you come by 20 my office, I have a document I would like for you to 21 22 see that I have found. 88 Then he came over to your office? 1 0 Yes. I handed it to him. 2 A 3 0 How much later was that? 4 About an hour or so later. A So about 2:00? 5 Q 6 Yes. Α 7 So what happened? 0 He looked at the record and he left. 8 Α 9 Did he take the record? Q 10 No. He left it in my office. Α 11 0 Did he touch the record? 12 Yes. He looked at the record. Α 13 Q He looked through the records? 14 Α Did he make any phone calls from your 15 0 office? 16 17 Α No. He said keep the record, Ms. Huber? 18 · O I don't know if he said that or what. He 19

just said I will get back in touch.

Then what happened next?

Then the next thing, at 5:00, my lawyer,

20 21

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Α

1158 89 1 Hank, Mr. Schuelke, and Ms. Sherburne and Mr. Kendall 2 came back to my office. 3 Did you stay in your office the entire 4 time? 5 Α Yes. 6 Didn't go out for lunch? 0 7 No, I do not go out for lunch. Α 8 0 Then they all came to your office? 9 A Yes. 10 0 And what happened next? 11 They looked at the record and then we A 12 decided that -- Ms. Sherburne -- I don't know who 13 decided we needed to copy it. So, we had to go over 14 to the new Executive Office Building and copy it. 15 Did you put the records in an envelope or 16 did it just get carried over? 17 I don't remember if we just carried them 18 over there or what. 19 Ms. Sherburne made a copy of the record 0 20 then? 21 She helped me photograph them. We both photographed two copies. We had to go over there 22 90 1 because they had a machine that made color. 2 Q Did Ms. Sherburne say anything else to you? 3 Α No. 4 O Did Mr. Kendall say anything else to you? 5 Α 6 0 Did they ask you where you found the 7 records? 8 Α Yes. 9 What did you tell them? 0 10 I told them the story I told you. Α 11 Q Have you spoken to Ms. Sherburne since that 12 time? 13 No. I have not. Α 14 0 Have you spoken to Mr. Kendall since that 15 time?

A It was 10:00 at night, so we all went
home.
Q Who took custody of the records?

After you made the copies of the records

over at the new Executive Office Building, what

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happened next?

No.

91 1 Mr. Kendall. 2 He took custody of both copies and the 0 3 original? Ms. Sherburne got one and he took two. 4 Α 5 MR. KRAVITZ: So the record is clear, you have referred to an original. My understanding is 6 that what you have referred to as an original was 7 itself a copy; is that correct? 8 THE WITNESS: Yes. 9 10 BY MR. GIUFFRA: Why did it take so long to copy the 11 12 documents? 13 You should see this machine. I wish we had had a fast machine. It was horrible. It was so 14 15 slow. It was a color machine. I didn't realize it 16 takes longer to make colored copies. Then we ran out of ink and we had to fill the ink and we had to fill 17 the paper. I never ran a color Xerox machine 18 19 before. So I had to learn how to use it. We were 20 doing 11 by 17 pages. That takes longer when you do 21 a longer page. From the time when Ms. Sherburne and 22 92 1 Mr. Kendall came in the afternoon until about 10:00, how long did you spend on the copying? 2 I was copying it for the whole time. 3 You spoke to them for about a half hour and 4 5 then the copying? 6 No. We didn't speak hardly at all. We 7 went right on to make copies. So it took about five hours to make the 8 9 copies? Yes, because we were making two copies. 10 A 11 Did you speak to anyone else that evening? Q I certainly did not. 12 Α 13 On the day you found the records, did you speak to Mrs. Clinton at all? 14 No. I didn't. 15 Α 16 Did you speak to Ms. Williams on the day 17 you found the records? No. I didn't. 18 Q Have you discussed -- strike that.

With whom have you discussed the finding of

19 20

21

22

these records?

My attorney.

Α

			93
1	Q	Here today?	73
2	À	Yes.	
3	Q	The grand jury?	
4	À	Yes.	
5	Q	Anyone else?	
6	À	David, when I told David, but we didn't	
7	discuss i	it. I just showed him the paper. That was	
8	it.		
9	Q	You haven't discussed it with anyone else?	
10	Α	No.	
11	Q	Have you discussed the finding of the	
12	records	with Mrs. Clinton?	
13	Α	No. I have not spoken with her since	
14	Decemb	er 22nd.	
15	Q	,	
16	since De	ecember 22nd?	
17	Α	Because that's the day I left to go home.	
18	I was go	one until January 2nd when I came back.	
19	Q	You haven't spoken to her since that time?	
20	Α	No, I have not.	
21	Q	Have you spoken to Ms. Williams since you	
22	found th	e records?	
	100110 111	1000103.	
			94
1	A	No. She called one day this week just to	94
1 2	A see how	No. She called one day this week just to I was, but she did not ask about the record.	94
1 2 3	A see how We did	No. She called one day this week just to I was, but she did not ask about the record. not discuss the record. She called to see if	94
1 2 3 4	A see how We did	No. She called one day this week just to I was, but she did not ask about the record. not discuss the record. She called to see if any and that was it and hung up.	94
1 2 3 4 5	A see how We did to I was ok	No. She called one day this week just to I was, but she did not ask about the record. not discuss the record. She called to see if any and that was it and hung up. Because of all the publicity?	94
1 2 3 4 5 6	A see how We did I I was ok Q A	No. She called one day this week just to I was, but she did not ask about the record. not discuss the record. She called to see if tay and that was it and hung up. Because of all the publicity? Yes. She had heard my name in the paper.	94
1 2 3 4 5 6 7	A see how We did I I was ok Q A Q	No. She called one day this week just to I was, but she did not ask about the record. not discuss the record. She called to see if ay and that was it and hung up. Because of all the publicity? Yes. She had heard my name in the paper. Since you found the records, have you	94
1 2 3 4 5 6 7 8	A see how We did to I was ok Q A Q spoken t	No. She called one day this week just to I was, but she did not ask about the record. not discuss the record. She called to see if ay and that was it and hung up. Because of all the publicity? Yes. She had heard my name in the paper. Since you found the records, have you to Ms. Thomases?	94
1 2 3 4 5 6 7 8	A see how We did to I was ok Q A Q spoken to	No. She called one day this week just to I was, but she did not ask about the record. not discuss the record. She called to see if tay and that was it and hung up. Because of all the publicity? Yes. She had heard my name in the paper. Since you found the records, have you to Ms. Thomases? Yes. I talked to her last week one day.	94
1 2 3 4 5 6 7 8 9	A see how We did to the see to th	No. She called one day this week just to I was, but she did not ask about the record. not discuss the record. She called to see if tay and that was it and hung up. Because of all the publicity? Yes. She had heard my name in the paper. Since you found the records, have you to Ms. Thomases? Yes. I talked to her last week one day. It about that. It was about a personal bill	94
1 2 3 4 5 6 7 8 9 10	A see how We did I I was ok Q A Q spoken t A It wasn't	No. She called one day this week just to I was, but she did not ask about the record. not discuss the record. She called to see if tay and that was it and hung up. Because of all the publicity? Yes. She had heard my name in the paper. Since you found the records, have you to Ms. Thomases? Yes. I talked to her last week one day. It about that. It was about a personal bill nerican Express.	94
1 2 3 4 5 6 7 8 9 10 11 12	A see how We did to the see how Q A Q spoken t A It wasn't with Am Q	No. She called one day this week just to I was, but she did not ask about the record. not discuss the record. She called to see if tay and that was it and hung up. Because of all the publicity? Yes. She had heard my name in the paper. Since you found the records, have you to Ms. Thomases? Yes. I talked to her last week one day. It about that. It was about a personal bill herican Express. The Clintons' personal bill?	94
1 2 3 4 5 6 7 8 9 10 11 12 13	A see how We did to I was ok Q A Q spoken t A It wasn't with Am Q A	No. She called one day this week just to I was, but she did not ask about the record. not discuss the record. She called to see if ay and that was it and hung up. Because of all the publicity? Yes. She had heard my name in the paper. Since you found the records, have you to Ms. Thomases? Yes. I talked to her last week one day. It about that. It was about a personal bill herican Express. The Clintons' personal bill? Yes.	94
1 2 3 4 5 6 7 8 9 10 11 12 13 14	A see how We did to I was ok Q A Q spoken to A It wasn't with Am Q A Q	No. She called one day this week just to I was, but she did not ask about the record. not discuss the record. She called to see if tay and that was it and hung up. Because of all the publicity? Yes. She had heard my name in the paper. Since you found the records, have you to Ms. Thomases? Yes. I talked to her last week one day. It about that. It was about a personal bill herican Express. The Clintons' personal bill? Yes. When was the first time you ever saw these	94
1 2 3 4 5 6 7 8 9 10 11 12 13	A see how We did to the did to th	No. She called one day this week just to I was, but she did not ask about the record. not discuss the record. She called to see if any and that was it and hung up. Because of all the publicity? Yes. She had heard my name in the paper. Since you found the records, have you so Ms. Thomases? Yes. I talked to her last week one day. It about that. It was about a personal bill nerican Express. The Clintons' personal bill? Yes. When was the first time you ever saw these	94
1 2 3 4 5 6 7 8 9 10 11 12 13 14 15	A see how We did to the did to th	No. She called one day this week just to I was, but she did not ask about the record. not discuss the record. She called to see if tay and that was it and hung up. Because of all the publicity? Yes. She had heard my name in the paper. Since you found the records, have you to Ms. Thomases? Yes. I talked to her last week one day. It about that. It was about a personal bill nerican Express. The Clintons' personal bill? Yes. When was the first time you ever saw these It was the 1st of August. I mean, I did	94
1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16	A see how We did it I was ok Q A Q spoken t A It wasn't with Am Q A Q records? A not see t	No. She called one day this week just to I was, but she did not ask about the record. not discuss the record. She called to see if tay and that was it and hung up. Because of all the publicity? Yes. She had heard my name in the paper. Since you found the records, have you to Ms. Thomases? Yes. I talked to her last week one day. It about that. It was about a personal bill herican Express. The Clintons' personal bill? Yes. When was the first time you ever saw these It was the 1st of August. I mean, I did the document. I picked it up. I did not see	94
1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17	A see how We did it I was ok Q A Q spoken t A It wasn't with Am Q A Q records? A not see t the inside	No. She called one day this week just to I was, but she did not ask about the record. not discuss the record. She called to see if tay and that was it and hung up. Because of all the publicity? Yes. She had heard my name in the paper. Since you found the records, have you to Ms. Thomases? Yes. I talked to her last week one day. It about that. It was about a personal bill nerican Express. The Clintons' personal bill? Yes. When was the first time you ever saw these It was the 1st of August. I mean, I did	94
1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18	A see how We did it I was ok Q A Q spoken t A It wasn't with Am Q A Q records? A not see t the inside	No. She called one day this week just to I was, but she did not ask about the record. not discuss the record. She called to see if tay and that was it and hung up. Because of all the publicity? Yes. She had heard my name in the paper. Since you found the records, have you to Ms. Thomases? Yes. I talked to her last week one day. It about that. It was about a personal bill herican Express. The Clintons' personal bill? Yes. When was the first time you ever saw these It was the 1st of August. I mean, I did the document. I picked it up. I did not see le. The first time I saw it on the inside	94
1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19	A see how We did it I was ok Q A Q spoken t A It wasn't with Am Q A Q records? A not see t the insid was Janu Q the docu	No. She called one day this week just to I was, but she did not ask about the record. not discuss the record. She called to see if tay and that was it and hung up. Because of all the publicity? Yes. She had heard my name in the paper. Since you found the records, have you to Ms. Thomases? Yes. I talked to her last week one day. It about that. It was about a personal bill nerican Express. The Clintons' personal bill? Yes. When was the first time you ever saw these It was the 1st of August. I mean, I did the document. I picked it up. I did not see le. The first time I saw it on the inside uary 4th. You think it was August 1st that you saw	94

95 1 BY MR. GIUFFRA: Do you think it was August 1st? 2 0 3 Early August. Α The first week of August? 4 0 Sometime around the first, the first week. 5 Α 6 Early in the first week of August? O 7 I don't know if it was the first part of the week or last part. 8 9 But the first week in August? Q 10 Α Around that time. Do you know how these records were found -11 0 12 strike that. 13 Do you know how these records made their way to the book room? 14 I have no idea. 15 And you have never spoken to Mrs. Clinton 16 0 on any occasion about Rose Law Firm billing records? 17 18 No. I have not. 19 0 During the 1992 presidential campaign, did 20 anyone ask you to obtain any Rose Law Firm billing 21 records? A I cannot recall them asking me to do that, 22 96 1 to do it. 2 Did anyone ask you to retrieve any 3 documents -- strike that. 4 Do you recall if Mr. Foster asked you to retrieve any documents during the presidential 5 6 campaign? 7 I cannot recall him asking me. Α 8 Mr. Hubbell? 0 Or Mr. Hubbell. Everything -- during the 9 campaign, we were not allowed to talk to reporters or 10 anything. Everything went through Mr. Hubbell and 11 Mr. Foster. 12 When reporters would call the Rose Law 13 14 Firm, you mean? 15 Yes. 16 In responding to questions, did they ever ask you to gather any documents? 17 18 A I don't remember them asking me, no. I did take the Clintons -- you are talking about those five 19 20 or six boxes I had? I took those over to the

campaign office. They called me to take them over

there, and somebody else had already taken them over

		97
1	there.	That was at midnight one time.
2		MR. SCHUELKE: Indulge us one moment.
3		(Pause.)
4		THE WITNESS: During the campaign they were
5	always	asking me about the Clintons' personal
6	records	s. I had those boxes.
7		BY MR. GIUFFRA:
8	. Q	This would be the financial records?
9	A	Yes.
10	Q	Who was asking you about it?
11	Α	People in the campaign office, Ms. Loretta
12	Lynch	and Roger Martin.
13	Q	Do you recall anyone else asking you?
14	Α	No.
15	Q	Do you recall any of the questions they
16	were a	sking you?
17	Α	They just were looking at checks.
18	Q	Did they mention Whitewater Development?
19	Α	Some of them were for Whitewater.
20	Q	Did they ever mention Madison Guaranty?
21	Α	No. I moved the boxes from the mansion
22	over to	my office at the Rose Law Firm and had them
		98
1	locked	up in a closet I kept right by my office so it
2	would	be closer so I didn't have to go to the mansion
3	to look	k them up.
4	Q	
5	mansio	on to the Rose Law Firm with Mrs. Clinton?
6	Α	I don't recall it. I wouldn't have had to
7	ask the	em to move them over there.
8	Q	Ordinarily you would go to the mansion and
9	do you	ır work?
10	Α	That's right. I would not see her. I was
11	just vo	plunteering my services.
12	Q	Do you recall approximately when the boxes
13	were n	noved from the mansion to the law firm?
14	Α	It would had to have been in early '92, but
15	I don'	t know exactly.
16	Q	February?
17	A	Probably before that, maybe January.
18	Q	Did you ever speak to strike that.
19		The two people you had contact with were
20	Mr. M	fartin and Ms. Lynch?
21	Α	Yes.
22	Q	You don't recall speaking to Mr. Hubbell

99 1 and Mr. Foster about the Clintons' financial records? 2 Α No. 3 Did you speak to a man named James Lyons 0 about the Clintons' financial records? 4 5 No. I did not. Q You mentioned a midnight episode. What was 6 7 that? It was in early February. They were --8 there was a story they were answering that came out 9 about the Clintons' financial records. 10 This was in The New York Times? 11 12 Α I think it was. 13 A man named Jeff Gerth? Does that ring a O 14 bell? I'm not sure who did the article. I was at 15 16 the Repertoire Theater, and they had been trying to 17 get me that night. 18 Did you have a pager then? 0 19 No. Mrs. Clinton called me at home and asked me to go to the Rose Firm and get the records 20 and take them to the campaign headquarters. When I 21 got to the Rose Firm, they had already been taken 22 100 down there. I don't know who had taken them down there. I called and told them they were not at the 2 Rose Firm. She said they had already been taken down 3 4 there by then. 5 Did she say who took them down? 6 A No, she didn't tell me that. Do you know of any other records that went 7 from the Rose Firm to the campaign? 8 9 Ms. Sue Kathy Jones had some Whitewater files in her office. Those were taken down there. 10 11 too. 12 Were they taken down there on the same 0 13 night? 14 Α Yes. How do you know they were taken there? 15 Q She was down there looking for them the 16 same night. We went to the campaign headquarters and 17 18 they were there. 19 When you went to the headquarters, who was 0 20 there? 21 I don't recall any of the people. Α Do you know if Ms. Thomases was there? 22 Q

- 101 1 Α No. I do not remember seeing her. 2 Was Ms. Williams there? 0 3 Α I wouldn't have known Maggie at that time 4 if I had seen her. Was Ms. Clinton at the campaign 5 0 6 headquarters? 7 No. Α Was Ms. Lynch at the campaign headquarters? 8 0 9 Α I don't remember seeing her that night. 10 You don't recall any of the people who were 0 11 there? 12 Α No. I just went to this table where they had the records. They said they didn't need my 13 14 help. I went on home. 15 Do you recall how many people there were? 0 16 Α About six people. 17 Were they looking through the records? 0 18 A Yes. It is your testimony you don't remember who 19 \bigcirc 20 the people were? 21 No, I just do not. I didn't know them, any 22 of the people on the campaign. 102 1 Was it all women who were in there? 0 2 No. There were some men in there too. Α 3 Do you remember how many women and men? O 4 Α I don't know. 5 Evenly divided? 0 6 Α I don't know. They were just campaign 7 workers. 8 Do you know of any other occasions when 9 Rose Law Firm documents were moved to the campaign? 10 No. 11 Q And no one asked you to gather any other --12 on any other occasion, no one asked you to gather any 13 other records from the law firm and bring them to the 14 campaign that you can recall? 15 Α No. 16 You don't know if anyone else was ever 17 asked to bring records from the law firm over to the 18 campaign? 19 No. I do not. A 20 Do you know whether Mr. Hubbell ever
- 21 attempted to get any records that were in your --22 strike that.

```
103
            Rose Law Firm had a storage facility at
1
2
    Little Rock: correct?
3
            Yes.
        Α
            And that was located close to the law firm?
4
        O
5
             No. it wasn't real close.
        Α
             Did anyone ever ask you to retrieve any
6
        0
7
    documents from the storage facility during the
8
    campaign that you can recall?
9
             Not that I can recall. We had people that
    worked out there. They could have called the people
10
    that worked out there.
11
12
             No one ever asked you to get any documents?
        0
13
             No, I didn't go out there.
        Α
             This night, the night of the midnight
14
        0
    episode, was it a weekend night?
15
             It was a Saturday night.
16
        Α
17
        0
             Do you remember the name of the show that
    you went to see?
18
19
             At the Repertoire Theater?
20
             Yes.
        0
21
        Α
             No.
22
        0
             It was at the Repertoire Theater?
                                                            104
 1
        A
2
             But you don't recall the name of the show?
        0
3
        Α
             No
4
             You wouldn't know whether it was February
        O
5
    12th?
6
             No, I wouldn't. I would have to look at a
    calendar, I guess. I don't remember what day it
7
 8
    was. It was 1992. That's four years ago.
9
        Q Let's go back to these pictures. This one
    is Huber Exhibit 2. Your lawyer took these pictures
10
11
    when?
12
             The night or the evening we found the
        Α
13
    documents.
             He came over with a camera and took the
14
15
    pictures. In which box were the documents?
             It is one of these right here. Just a
16
17
    minute.
18
            (Witness examined the photos.)
19
            It is this one, I think. I'm trying to
     find it. I think it is in this one right here, this
20
     one (indicating) I can't see the picture that I --
21
             You took all these pictures and now you
22
```

```
1
    can't find the box.
 2
             It is this one right here (indicating). I
 3
    remember this little picture in here because I had no
 4
    clue as to who these people were. That's the job I
 5
    have, trying to identify these people to put up.
             Huber Exhibit 5. Ms. Huber, there is a box
 6
 7
    approximately in the middle of the picture, and you
    believe that the documents were in that box?
 8
9
             Yes.
            MR. SCHUELKE: The one which the hat is
10
    touching in the photograph.
11
            BY MR. GIUFFRA:
12
        Q Where in the box were the records?
13
             Just stuck down in there.
14
        Α
15
             Stuck down the side?
        Q
             Yes, just standing up stuck down in there.
16
        A
             Your table had been covering the box?
17
        0
             Yes. It was about a 6-foot by 3-foot
18
        Α
    table. It was over the top of it. I didn't notice
19
20
    it. It shows how messy my office is. I don't like
21
    for you to see it.
22
        Q Ms. Huber, are you familiar with
                                                           106
    Mr. Foster's handwriting?
 1
 2
        Α
             Yes.
             Let me show you a document which bears
 3
    Bates number DKSN 028933. There is some writing in
 4
    red on the original, the copy we got from Mr. Kendall
 5
 6
    called our original. It says "HRC, I believe there
 7
    was a subsequent bill." Does that appear to be
 8
    Mr. Foster's handwriting?
 9
             Yes.
        Α
             The next page, DKSN 028934, there is also
10
    some handwriting: "HRC, this suggests first
11
12
    matter." Does that also appear to be Mr. Foster's
    handwriting?
13
14
         A
             Yes.
15
        0
             On the next page --
16
         Α
             That's the same stuff.
17
             Same thing.
        O
18
            Have you looked through these billing
19
     records?
20
             Just when I Xeroxed them, kind of scanned
     them just when I was Xeroxing them, and yesterday I
```

21 22

looked at them.

107 1 From the times you have looked at them, is 0 Mrs. Clinton's handwriting on these billing records? 2 3 I think it is once or twice. That's hers. 4 it looks like. That looks like her handwriting. 5 DKSN 029022, it looks to be a Post-It. 0 6 A This is not hers. 7 This would be -- the handwriting up on the 0 8 top, that would be Mrs. Clinton? 9 That looks like it. Α Where it says "bill against retainer." 10 0 11 Α 12 O Down at the bottom "applied retainer, due this matter," is that Mrs. Clinton's? 13 14 No. O You mentioned there was another place. 15 16 Α Yes. Q DKSN 029027, where it says "prepare bill"? 17 18 Α 19 O Are you aware of any other place in these billing records? 20 21 It seems like there was one other place. 22 Yesterday I did. 108 1 Q Take your time. 2 A I don't know what page it is on. 3 0 Is it right up here? That might be her writing, but it doesn't 4 look too quite like it. That's not the one I'm 5 looking for. 6 7 This is it right here. This is page DKSN 028983, and then it says 8 9 "S -- where are other Madison matters? PLS. Check," underlined. Those are the only places you 10 11 are aware of? 12 Yes, that I told you about that I remember 13 from looking vesterday. MR. SCHUELKE: He wants to know are they 14 15 the only ones. You better look through. 16 THE WITNESS: You want me to look through each page? I did it yesterday and I can't remember 17 18 how many times. I didn't count them. MR. GIUFFRA: Go ahead and look through. 19

20 (Witness examined the document.) THE WITNESS: There wouldn't be any on the 21

22 bills. It would be on these things.

109 1 (Witness examined the document.) 2 BY MR. GIUFFRA: 3 O Are you familiar with these types of 4 records from your time at --5 MR. BEN-VENISTE: Let her do one thing at a 6 7 THE WITNESS: Yes, I would see them at 8 certain times. Sometimes I collected money and I 9 would see them. I used to call our deadbeat clients 10 sometimes. 11 (Witness examined the document.) 12 BY MR. GIUFFRA: 13 See where it says "hold"? That means they didn't want to bill it on 14 A that particular bill. That's the bookkeeper. 15 16 0 That's the bookkeeper's handwriting? 17 Α MR. BEN-VENISTE: We are still looking for 18 19 Mrs. Clinton's handwriting? Let her do that first, 20 okay? My experience, it is a good idea to get the first job done before you interrupt with the second 21 22 job. Just put a clip there and come back. 110 1 BY MR. GIUFFRA: 2 DKSN 026982, we will come back to that. 0 3 (Witness examined the document.) 4 That one, did you want to mark that one? Α 5 DKSN 02893. What is the S with the dash? O 6 I'm sure that was her secretary. Α 7 0 What was her secretary's name? 8 Α At that point I think it was Sandra Moody, 9 but I'm not sure. 10 What year was that? 0 11 A This was 1985. Do you think she was her secretary in 1985? 12 0 About that time, ves. 13 Α 14 0 Do you know who Mrs. Clinton's secretary was in 1992? 15 16 Milli Alston. 17 0 Okay. (Witness examined the document.) 18 19 Α I don't know how many pages there are to

20

21

22

0

Α

these. That's not her writing.

That one you got.

That's page lower right corner 29016.

111 1 That's on the top of page 29022. Q 2 (Witness examined the document.) 3 That one, you got that one. Α 4 0 Yes. 5 MR. KRAVITZ: What is that? 6 MR. GIUFFRA: 29027. 7 (Witness examined the document.) 8 THE WITNESS: That one is Mrs. Clinton. 9 BY MR. GIUFFRA: O That's 29032 at the top where it says "S --10 11 prepare bill." 12 (Witness examined the document.) Are you familiar with the handwriting on 13 14 page 29042? MR. BEN-VENISTE: Which handwriting? 15 BY MR. GIUFFRA: 16 The top corner where it says "draft bill." 17 O It says "narrative." They wanted a 18 narrative style bill, but I don't recognize that 19 20 handwriting. O How about the "services rendered by Hillary 21 Rodham Clinton"? 22 112 1 I don't know whose handwriting that is. 2 That's it. 3 Now, during your time as firm administrator, were you familiar with the firm's 4 5 billing procedures? 6 A That the attorneys billed, yes. 7 Q Is this a process you were normally involved in? 8 9 A No, I wasn't involved in it, but I knew the process. Only attorneys could bill their clients. 10 Q This is page DKSN 28960. This is an entry 11 which is RNM, which is Mr. Massey, and it is circled 12 13 and there is a hold. What does that mean? They were billing -- all these entries are 14 June. This is my -- I'm just -- this is the way we 15 16 usually bill monthly. MR. SCHUELKE: This is the way you 17

THE WITNESS: Yes. We were only billing

June time. This was a July entry. They sent -- the

June. We hold it and then the next month it would

girl in accounting knew we don't bill July on to

18

19

20

21

22

interpret them?

```
113
 1
    come down again. We tried to get the lawyers to bill
    monthly, but that was very hard to do. That was one
 2
 3
    of my jobs, to go around if they didn't bill and say
    you have to bill.
 4
 5
            BY MR. GIUFFRA:
             My old law firms, if you didn't do your
 6
    billing, they wouldn't pay you.
 7
 8
            We wouldn't pay them if they didn't put
 9
    their time in.
10
        0
            That's what we did.
            This is on page 8994. It says "combine
11
12
    with prior bill."
13
            That looks like Mrs. Clinton's writing. It
    was just a photocopy and a little time. So it went
14
    in with -- I don't know what the prior bill was.
15
            There are some numbers written in on page
16
    029011 at the bottom of the page where it says
17
18
    "amount to bill" and then it has a number. Does
19
    that look like Mrs. Clinton's handwriting?
20
        A No, no. That's the little accounting
    clerk. I recognize her writing. It is Carrie.
21
        O What is her last name?
22
                                                            114
             Oh, goodness. I knew you were going to ask
 1
 2
    me that. That was back in 1986.
 3
             You are quite certain it is somebody --
        0
             Carrie, she was there and she got married.
 4
 5
    I can't remember her married name and her other
 6
    name.
 7
             Maybe just in helping us interpret this
        0
    bill, in this particular entry, it has a matter value
 8
    of $912.50 and then the amount to bill is $2731.25.
 9
10
            Do you know why that number would be
    different?
11
12
             I have no idea. You would have to -- the
13
    attorneys did their own numbers. I didn't know.
             The attorney would be the person --
14
15
             They would be the person that would do the
16
    allocation of the billing.
            If Mrs. Clinton was the billing partner,
17
    she would be the person telling the people in
18
    accounting what amount to bill the client
19
20
    ordinarily?
            MR. SCHUELKE: If you know.
21
```

THE WITNESS: I don't know. In the normal

```
course, that's how it runs. But it is not always
 1
    true to form that it does that.
2
3
            BY MR. GIUFFRA:
4
            Typically --
        0
            Typically that's how it works in the Rose
5
    Law Firm, the billing attorney does.
6
        O The billing attorney would sometimes call
7
    the accounting department and give them the
8
    numbers --
9
10
        Α
            Yes
            -- by telephone?
11
        O
            No. Usually those girls went around and
12
    met with the attorneys. They would tell them how to
13
    bill it.
14
            Why don't you just give us a little bit of
15
        O
    a summary of what you know about the billing process
16
    at the Rose Law Firm.
17
            MR. BEN-VENISTE: Can we go off these
18
    documents for a moment?
19
20
            MR GILIFFRA: Yes
            MR. BEN-VENISTE: Do you mind if I ask a
21
22
    couple questions?
                                                          116
 1
            MR. GIUFFRA: Certainly.
            MR. BEN-VENISTE: Because I have to go to a
2
 3
    meeting shortly.
4
                    EXAMINATION
 5
            BY MR. BEN-VENISTE:
            Mrs. Huber, you indicated that the
6
    notations of Mr. Foster were in red ink and that you
7
    made color copies so that we have red ink on our
 8
9
    copy.
10
        Α
             Yes.
             Could you tell whether in fact Mr. Foster's
11
    handwriting was in original red ink or did it appear
12
    to be a color photocopy that you were looking at?
13
             It looked like an original.
14
15
             Now, with respect to the other handwriting
    that you have been asked to describe, could you tell
16
    whether that was original handwriting or whether that
17
    was photocopied handwriting?
18
             It was photocopied.
19
20
            MR. BEN-VENISTE: Thank you.
21
                    EXAMINATION
            BY MR. GIUFFRA:
22
```

1 Q Just tell us what you know about the 2 Rose --

A What I know is every month the accounting department runs out everybody's billing memos. They

5 send the billing memos to the billing partner that is

6 in charge of that client. They get their stack of

7 billing memos. Then the accounting clerks call the

8 attorneys to say are you ready to bill your client,

9 we need to bill this back so we can get them out.

10 They would meet with them, try to get the billing

11 memos back, talk to them about it, produce the bills

12 and send them to the attorney to mail out. The

13 attorneys mailed them out.

14

15

16

17

18

1

2

3

4

6 7

8

17

18

19

Q How often would the staff from the accounting department visit with the attorneys with regard to a particular matter?

A I don't know --

Q Was it a monthly process?

19 A Yes. Some bills were put on quarterly

billing and some were monthly. If it were on amonthly bill, they came out every month and they

22 visited the attorney to get the bills out. If it

118

were quarterly, they only did it every quarter.

Q Can you tell us from looking at these billing records whether Madison Guaranty was a monthly bill or a quarterly bill client?

A There is no indication on this that I can see that says what type. From looking at it, it looks like it was a monthly bill that they would put out.

9 Q What makes you think that it was a monthly 10 bill?

A Because I think on the quarterly -- I'm
trying to remember back -- that it would be more time
entries like for three months. These all look like
they may be one month to me, like where I told you
they suppressed the one July and only billed the
June

MR. BEN-VENISTE: Off the record. (Discussion off the record.)

BY MR. GIUFFRA:

Q Can you tell from looking at these bills whether Madison Guaranty was billed on an hourly basis or was billed on some other basis?

	119
1	A It looks like most of it is hourly. I
2	would have to look at each one, I guess, and examine
3	it. It looks like hours.
4	Q From what you recall about the Rose Law
5	Firm's procedures back in '85-86, if one lawyer spoke
6	to another lawyer, if I spoke to Mr. Massey if
7	Ms. Clinton spoke to Mr. Massey for a half hour, each
8	one of them would record a half hour of time?
9	A Not always. That was not true.
10	O Not true?
11	A No. Some lawyers would never put the time
12	down. Some did.
13	MR. KRAVITZ: Are you answering that
14	question specifically about Mrs. Clinton and
15	Mr. Massey?
16	THE WITNESS: No. I'm talking about a
17	general rule of the Rose Law Firm.
18	BY MR. GIUFFRA:
19	Q Was Mrs. Clinton, if you know, someone who
20	kept her time very accurately or was she one of the
21	people who was sort of a little bit let it slide?
22	A No. She was a very accurate timekeeper.
	120
1	Q Why do you know that?
1 2	
	Q Why do you know that?
2	Q Why do you know that? A Because she was never on the list of not
2 3	Q Why do you know that? A Because she was never on the list of not getting her check.
2 3 4	Q Why do you know that? A Because she was never on the list of not getting her check. Q Was Mr. Massey an accurate timekeeper, if
2 3 4 5	Q Why do you know that? A Because she was never on the list of not getting her check. Q Was Mr. Massey an accurate timekeeper, if you know?
2 3 4 5 6	Q Why do you know that? A Because she was never on the list of not getting her check. Q Was Mr. Massey an accurate timekeeper, if you know? MR. SCHUELKE: You mean timely?
2 3 4 5 6 7	Q Why do you know that? A Because she was never on the list of not getting her check. Q Was Mr. Massey an accurate timekeeper, if you know? MR. SCHUELKE: You mean timely? THE WITNESS: He means in a timely fashion,
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2 3 4 5 6 7 8 9 10 11 12	Q Why do you know that? A Because she was never on the list of not getting her check. Q Was Mr. Massey an accurate timekeeper, if you know? MR. SCHUELKE: You mean timely? THE WITNESS: He means in a timely fashion, I think. BY MR. GIUFFRA: Q In terms of accurately recording how they spent their time in the course of a day, if you know, was Mrs. Clinton someone who accurately recorded how
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2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18	Q Why do you know that? A Because she was never on the list of not getting her check. Q Was Mr. Massey an accurate timekeeper, if you know? MR. SCHUELKE: You mean timely? THE WITNESS: He means in a timely fashion, I think. BY MR. GIUFFRA: Q In terms of accurately recording how they spent their time in the course of a day, if you know, was Mrs. Clinton someone who accurately recorded how she spent her time during the day? A I don't really know because I didn't read her time records. MR. KRAVITZ: Your answer previously meant that Mrs. Clinton got her time sheets in in a timely manner?
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41 204 07 20

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121
 1
    any of the attorneys were.
2
            The only reason I would know if they
 3
    weren't is because I got their paycheck and kept it
4
    locked in the safe. I was the keeper of the
5
    pavchecks.
6
            BY MR. GIUFFRA:
7
        O You had a lot of power.
8
             The payroll supervisor sent them to me.
             Ms. Huber, did there come a time in 1985-86
9
    that you learned that Madison Guaranty had retained
10
11
    the Rose Law Firm to be --
12
            The only way I would have known is we have
    a new client thing that goes around all the time that
13
    every day that will say if we got a new client. We
14
15
    have a little newsletter and it would put all the new
16
    clients on
17
             You don't recall seeing Madison on the new
        0
    client list?
18
19
             I'm sure I did
            You have no recollection as you sit here
20
21
    today?
22
             No. I mean, every day we would put out who
        Α
                                                           122
 1
    the new clients were.
 2
             Have you ever heard of something called
 3
    Castle Grande?
 4
             No.
 5
             Do you know a man named Seth Ward?
        O
             I know who he is. I used to -- I have seen
 6
 7
    him in our law firm. But I do not know him. I know
 8
    who he is. If I saw him, I would know him. That's
 9
    it.
10
             Was he a regular visitor at the Rose Law
        0
11
    Firm?
12
             I would see him there. He was just coming
    for a friendly visit. Or I thought. I don't know
13
    what he was coming other than to see his son-in-law.
14
             Mr. Hubbell?
15
        0
16
             Yes.
        Α
17
             Do you know if Mrs. Clinton knows Mr. Ward?
             I don't know to be sure. I have never seen
18
19
     her talk to him.
20
            Ms. Huber, when did you first hear that
```

Mr. Hubbell might have trouble with regard to his

expense -- the way he was handling his expenses at

21

123 the Rose Law Firm? 2 When it was in the news --3 MR. SCHUELKE: When did she hear that it 4 was a matter under investigation? 5 MR. GIUFFRA: Let's rephrase the question. 6 BY MR GILIFFRA: 7 When did you hear that there might be a 8 problem with regard to how Mr. Hubbell had done his 9 expenses at the Rose Law Firm? In the paper. It was in the newspaper. I 10 don't discuss these kind of matters with people at 11 the Rose Law Firm. So I didn't know they were having 12 13 a problem. 14 You don't recall discussing it with anyone 15 during 1993? 16 Α No. The first you heard of his problem was when 17 18 it was in the newspaper? 19 Yes. A You never discussed Mr. Hubbell's problem 20 with Mrs. Clinton? 21 22 No. 124 1 Do you know anything about the type of legal services that the Rose Law Firm provided to 2 3 Madison? No. I wouldn't know that. 4 Α 5 Have you ever heard of something called 6 Flowerwood Farms? 7 Α No. 8 Were you aware that in 1991, Mr. Kennedy 9 was providing some legal services to Mrs. Clinton 10 with regard to Whitewater Development Corporation? 11 Yes How did you become aware of the fact that 12 Mr. Kennedy was doing some work for Mrs. Clinton with 13 regard to Whitewater Development Corporation? 14 15 I know through the accountant, Yoly Redden. She told me that Mr. Kennedy was doing some 16 legal stuff on the Whitewater because she had to 17 supply records to him because she was the Clintons' 18 19 accountant.

Did you have any discussions with

Mrs. Clinton about the fact that Mr. Kennedy was

providing these legal services to her?

20

21

125 Other than I knew she told me she asked 1 2 Mr. Kennedy to help her. Did you provide any documents to 3 4 Mr. Kennedy? 5 I don't think we had any documents. Yoly had some of them that she brought over there. We 6 would have only had like some old checks or things 7 8 like that. Mrs. Redden would have had the tax 9 returns that she kept at her office. 10 Even though you were the office 11 administrator of the Rose Law Firm in 1981, you at the same time handled her finances like handling her 12 13 checking account? 14 All I did was balance the checks because 15 she wrote her own checks. When it was tax time, I 16 would get all the stuff collected that she needed for taxes and take them over to the accountant. 17 18 Would you do that work over at the 19 governor's mansion and office there? 20 Α Yes 21 When did you first learn that the Clintons 22 had an investment in Whitewater Development 126 1 Corporation? 2 I'm sure back in '79 I probably heard of it. It was just in passing. It was nothing that I 3 knew about. I didn't know anything about it. I 4 5 never saw any files or anything on it. Now, you testified that Mr. Kennedy was 6 7 doing some work with regard to Whitewater. 8 Yes Α 9 Did you ever learn that Mr. Foster was doing any work? 10 MR. SCHUELKE: At what time? 11 12 BY MR. GIUFFRA: 13 Q At any time. 14 A Yes, in December of 1992. 15 In December of 1992 you learned Mr. Foster 16 was doing some Whitewater? 17 Yes. Α 18 What did you learn that he was doing? O That they were selling all of their shares 19

out to Mr. McDougal and they paid him a thousand

Do you know where Mr. McDougal got the

20

21

22

dollars for it.

Q

1177 127 thousand dollars to pay the Clintons? 2 No Did you ever talk to Mr. Blair about 3 0 Whitewater Development Corporation? 4 5 No 6 Do you know Mr. Blair? 0 I know him quite well, but I have never 7 talked to him about Whitewater Development 8 9 Corporation. O On any occasion? 10 11 A No. He is just a personal friend. Have you spoken to Mr. Blair in the last 12 three weeks? 13 A I saw him yesterday in Little Rock and said 14 hello. But I have not talked to him, no. 15 Didn't talk to him about the discovery of 16 these documents? 17 No. The last time I saw him was on his 18 birthday, October 27th. His birthday is the 25th but 19 20 he was here for the 27th. 21 O You saw him where yesterday? He was at the Tucker hearing. We had to 22 128 1 pass right by them. 2 He was attending the hearing? 0 3 Α 4 MR. SCHUELKE: Off the record. 5 (Discussion off the record.) 6 BY MR. GIUFFRA: 7 After Mr. -- your understanding is Mr. Foster handled the sale of -- the Clintons' sale 8 of Whitewater back to Mr. McDougal? 9 10 Α Yes. 11 Do you know whether Mr. Foster did any 0 other work related to Whitewater? 12 A I don't know if he did any. I don't know. 13 Were you aware that Mr. Foster was doing 14 any work with regard to Whitewater while he was at 15 the White House? 16 A 17 No.

Have you ever talked to Mr. Lindsey about

21 Q Do you know Mr. Lindsey? 22 You mean Bruce Lindsey?

No.

18

19 20

0 Whitewater?

1178 129 1 O Yes. 2 I know him, but I never talked to him. Α 3 About Whitewater? 0 4 Α I never talked to him. 5 Has Mr. Lindsey or anyone from his office 6 ever asked you to provide documents? 7 Α No. 8 0 Has Mrs. Clinton ever asked you to provide 9 documents to Mr. Lindsey? 10 No. 11 0 Checks, canceled checks? 12 A No. 13 Do you know whether Mr. Lindsey has ever 14 looked through the personal and financial records of 15 Mr. and Mrs. Clinton? 16 A No. I don't. 17 O Has Mr. Lindsey ever been in the book room 18 as far as you know? 19 No, not as far as I know. 20 Just to be clear on this, other than the 21 President, Mrs. Clinton, yourself and guests --And Ms. Marshall. We have access to go up 22 130 1 there. 2 0 Do you know of anyone else who has been in 3 the book room? 4 No. I don't. A 5 (Counsel conferred with the witness.) 6 BY MR. GIUFFRA: 7 Q Is there something you want to add? 8 It was in late August, September, October, 9 there were the book people. 10 Who were the book people? 11 I can't remember their names. They were 12 from Simon Schuster. They were there typing and 13 working on the book, and I don't remember -- I didn't 14 meet all of them because I didn't go up there. 15 As of the time you found the document, you don't recall seeing anyone else in the book room? 16 17 Α No. 18 Would you consider the book room to be a fairly private part of the White House? 19 20 Yes.

Within the personal quarters of the

21

22

0

President and First Lady?

	131	
1	A Yes, because everybody is gone so it is	
2	getting filled up again.	
3	Q Was the book room you mentioned guests	
4	would sometimes would guests who would come to the	
5	White House sometimes go to the book room?	
6	A Sometimes they would exercise.	
7	MR. SCHUELKE: She testified they would	
8	occasionally use the exercise room.	
9	BY MR. GIUFFRA:	
0	Q Other than that.	
1	A I don't know. I am not with them all the	
2	time.	
3	Q There are sleeping quarters on the third	
4	floor?	
5	A Yes.	
6	Q Do you know whether Ms. Thomases ever spent	
7	the night at the White House?	
8	A I didn't see her there. I have made	
9	reservations for her to spend the night.	
0	Q Are there records kept of who has spent the	
1	night at the White House?	
2	A Yes.	
	132	
1	Q Who keeps those records?	
2	A I do. I keep a record of them.	
3	Q You testified that your first recollection	
4	of Whitewater Development Corporation is about 1979.	
5	Did there come a time when Mrs. Clinton asked you to	
	· · · · · · · · · · · · · · · · · · ·	
6	take any action with regard to the Clintons'	
7	take any action with regard to the Clintons' investment in Whitewater?	
7 8	take any action with regard to the Clintons' investment in Whitewater? A No. Wait just a minute. You mean about	
7 8 9	take any action with regard to the Clintons' investment in Whitewater? A No. Wait just a minute. You mean about their taxes?	
7 8 9 0	take any action with regard to the Clintons' investment in Whitewater? A No. Wait just a minute. You mean about their taxes? Q Or anything.	
7 8 9 0	take any action with regard to the Clintons' investment in Whitewater? A No. Wait just a minute. You mean about their taxes? Q Or anything. A Okay. I have done that, called the tax	
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7 8 9 0	take any action with regard to the Clintons' investment in Whitewater? A No. Wait just a minute. You mean about their taxes? Q Or anything. A Okay. I have done that, called the tax assessors. I did a tax assessment to see if the property tax had been paid on the land up there. Q Was this something you did every year? A I'm not sure if I did it every year, but I did it several years I know. Q This was something Mrs. Clinton asked you to check on? A Yes, so I could get the information to	

133 1 her as to what she may have done in connection with 2 Whitewater. 3 BY MR. GIUFFRA: 4 Your counsel stated the question. Do you recall anything you may have done with regard to the 5 Clintons' investment in Whitewater? 6 7 I would call the tax assessor. I did 8 that. 9 0 Where was the tax assessor? Was that Pulaski County? 10 11 No. It is Flippin, the town, but I can't think of the county. I talked to them to see if the 12 taxes were paid on the property. 13 14 O This is something you think you may have 15 done on a yearly basis? A I could have. It didn't seem I did it 16 every year. I didn't do it early on. It was like 17 the last, maybe '86 to '92. 18 19 When was the last time you recall checking 20 to see whether the taxes were paid on the Clintons' 21 investment in Whitewater? 22 A In '91, I think I'm sure I did. 134 Why are you sure you did in '91? 1 0 2 '91, I did in '91. And then also I had talked to the bank about some of the payments in '91 3 4 and '92 on the Whitewater. That's when they were 5 trying to get it cleared out so they could sell it. O Do you recall any discussions you had with 6 Mrs. Clinton in '91 or '92 about Whitewater? 7 8 No. I didn't really discuss it with her. She would tell me to talk to the people up there and 9 then get with the accountant, because Yoly was in 10 11 charge. 12 You mostly spoke with Ms. Redden? 0 13 Α Do you know whether Ms. Clinton spoke with 14 0 15 Ms. Redden? 16 I don't know. Do you know how far back the Clintons' 17 18 records with regard to Whitewater go? 19 No, I don't. I don't. Back in the early years, we didn't have any files on Whitewater that I 20

had at the governor's mansion.

Do you know where those files were

	133
1	maintained?
2	A They didn't have any.
3	Q When did the Clintons first get records
4	with regard to Whitewater?
5	A I can't remember when it was. They got a
6	little file the first file I remember was just a
7	picture of this place.
8	Q Do you recall when that was?
9	A That was probably earlier, just a picture
0	of Whitewater, a sales brochure. They never really
1	had any records on it. Mr. McDougal had them all.
2	Q Have you ever spoken to Jim McDougal?
3	A Yes, about the taxes, whether they were
4	paid or not. In the early part I would talk to him.
5	Then I could never find him.
6	Q After?
7	A I don't know what years it was. It was
8	really hard to run him down.
9	Q This would have been in the early '80s you
0.2	may have called Mr. McDougal?
2.1	A Yes.
22	Q Did you speak to him in his office at the
	136
1	Madison Guaranty bank?
2	A I'm sure he was there one of the years when
3	I tried to find out about the taxes.
4	MR. SCHUELKE: The question was whether you
5	MR. SCHUELKE: The question was whether you ever met him physically at the bank.
5 6	MR. SCHUELKE: The question was whether you ever met him physically at the bank. THE WITNESS: I never met him. These were
5 6 7	MR. SCHUELKE: The question was whether you ever met him physically at the bank. THE WITNESS: I never met him. These were telephone calls.
5 6 7 8	MR. SCHUELKE: The question was whether you ever met him physically at the bank. THE WITNESS: I never met him. These were telephone calls. BY MR. GIUFFRA:
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		137
1	A Because it was right when we first went to	
2	the mansion and she was there at a party and I met	
3	her and that was it.	
4	Q Let me show you some documents. I will	
5	take you through them. Do you recall before we	
6	get into the documents, do you recall	
7	MR. SCHUELKE: Hold on. Listen to the	
8	question.	
9	BY MR. GIUFFRA:	
10	Q Do you recall a time probably after 1986	
11	when several boxes of Whitewater documents arrived a	t
12	the governor's mansion?	
13	A Yes, and I took them over to Yoly Redden.	
14	Q Who sent the documents to the governor's	
15	mansion? Do you know?	
16	A Their accountant, Mr. McDougal's	
17	accountant.	
18	Q Mr. McDougal's accountant?	
19	A Yes.	
20	Q Do you remember his name?	
21	A It is probably in some of the stuff.	
22	Q Mr. James?	
		138
1	A Yes.	138
2	A Yes. Q Charles James?	138
		138
2	Q Charles James?	138
2	Q Charles James? A Yes.	138
2 3 4	Q Charles James?A Yes.Q Did you ever speak to Mr. James?	138
2 3 4 5	Q Charles James?A Yes.Q Did you ever speak to Mr. James?A No.	138
2 3 4 5 6	 Q Charles James? A Yes. Q Did you ever speak to Mr. James? A No. Q Did Mrs. Clinton say anything to you about 	138
2 3 4 5 6 7	Q Charles James? A Yes. Q Did you ever speak to Mr. James? A No. Q Did Mrs. Clinton say anything to you about these records when they arrived?	138
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139 1 "Hillary, I did not get to speak to Jim. 2 The lady in his office told me he sold the property late last year. She asked I send the bill to Jim so 3 I did today." 4 5 What does this note refer to, if you know? 6 I think it was a tax bill, but I'm not Α 7 sure. MR. KRAVITZ: What is the page number on 9 that? 10 MR. GIUFFRA: DKSN 010500. 11 MR KRAVITZ: The date? 12 THE WITNESS: 6/23/86. I don't really know 13 for sure what it was. BY MR. GIUFFRA: 14 15 Do you know what the discussion in the note 16 about selling the property means? 17 No. Α 18 You think the bill is the tax bill? 0 19 Α I really don't know. 20 So you don't have any recollection of this 0 21 note? 22 No, I don't. 140 1 0 Do you know a man named Chris Wade? 2 I have spoken to him several times. Α 3 0 About Whitewater? 4 About the lots. Α 5 What do you recall about your discussions? 0 6 Α Asking him about payments or taxes. I 7 would even ask him about taxes. 8 Do you know if Mr. Wade spoke to Mrs. Clinton? 9 10 I really don't know. MR. KRAVITZ: Did you mean at any time 11 12 ever? 13 MR. GIUFFRA: Yes. THE WITNESS: And I don't know. 14 15 BY MR. GIUFFRA: 16 The next document is DKSN 010501. It 17 speaks about a Mr. Hazard. Do you know who Mr. Hazard is? Strike that. 18 19 Is this your handwriting? 20 A Yes, it looks like it is mine. 21 Mr. Hazard, do you know who he is? Q 22 Α No.

141 O It says -- why don't you read it? 1 2 "Call Mr. Hazard, tell him we have not 3 received letter from bankruptcy court who is a real 4 estate agent." 5 Do you know what this is? Q 6 It was on a lot, and the man that bought it 7 had gone bankrupt and he died. 8 Is this something called lot 13? 9 I think it is Α 10 0 What do you know about lot 13? 11 I don't know anything about it other than 12 there is a lot up there, the Helman Logan stuff. I 13 don't know anything about it. 14 The person who bought the lot from 15 Mrs. Clinton defaulted on a loan that he had taken 16 out to buy the lot? 17 Α He died. 18 0 The estate defaulted on the loan? 19 Α Yes. 20 0 Do you know what Mrs. Clinton did about 21 that situation? 22 Α She bought that out of bankruptcy. 142 1 0 Did you ever discuss that with her? No. She had Mr. Bird at the Rose Law Firm 2 3 handled this document. She had me give some of the 4 papers to Mr. Bird. 5 O You don't know who Mr. Hazard is? 6 No, I don't know who Mr. Hazard is. It is 7 somebody in Arkansas. Mr. Logan lived in 8 Mississippi. Mr. Hazard, I don't know -- he is 9 somebody in Little Rock, but I don't know who he is. 10 MR. SCHUELKE: You are figuring this out 11 from --12 THE WITNESS: The phone numbers, the area 13 codes. 14 BY MR. GIUFFRA: Page DKSN 010502. That's got Mr. Hazard's 15 16 number on it, and Mrs. Logan's number on it. 17 Uh-huh. Α 18 You think you may have called Mrs. Logan? 0 19 I don't know whether I called her or just 20 got her number. 21

This reference to "automobile dealers

date," do you know what that has to do with?

143 1 A No. 2 0 Below that says what? 3 "Edens 8:00 a.m. letter from her." I don't have any idea "trustee up for sale, final approval, 4 5 bought and paid for." 6 No recollection about that? 0 7 Α 8 0 010503, the next page, there is a reference 9 to Paragould. That is Arkansas. She had a loan through 10 that bank, in Paragould Security Bank on this lot. 11 12 Do you know anything more about that loan? No. 13 Α 0 Turn to the next page. 14 MR. SCHUELKE: Hold on a second. 15 16 (Pause.) 17 BY MR. GIUFFRA: The next one 010504. Is this your 18 19 handwriting above it? No. That is Hillary's above there. That 20 21 is her's too. 22 \bigcirc Do you know what this has to do with? 144 "Ann, please type out names I have put X 1 by. Maybe Carolyn Huber could have list done on word 2 3 processing." 4 Do you know who Ann would be? 0 5 The lady at the mansion, Ann McCoy. Α She is related to Mr. L.D. Brown? 6 0 7 Α Yes. 8 0 Do you know Mr. L.D. Brown? 9 I met him back in 1980, whenever he was a Α 10 trooper. Is she his mother-in-law? 11 0 12 She is the mother-in-law of his. Α 13 0 The mother-in-law of L.D. Brown? 14 Yes. The only thing I can think is they were having the Valentine party or Christmas party 15 and they had a list they sent over to me to type up. 16 17 Q 010505 is the next one. Have you ever seen 18 this document before? 19 (Witness examined the document.) I can't -- I don't remember. 20 Α 21 This would be the --0

It went over to the mansion.

145 1 You don't recall seeing this. O 2 No. Α 3 0 And then the next one is DKSN 0 --4 MR. SCHUELKE: Hold on a second, please. 5 (Pause.) BY MR. GIUFFRA: 6 7 O I would like to show you a memo which bears Bates number DKSN 010493. Have you ever seen that 8 9 before? 10 MR. SCHUELKE: Why don't you first read 11 it. 12 (Witness examined the document.) 13 THE WITNESS: It seemed like we were always 14 worried about the taxes. 15 BY MR. GIUFFRA: You don't recall writing this memo to 16 17 Mrs. Clinton? I know I did. 18 Α 19 O What do you recall about it? 20 I don't recall --Α Other than what it says? 21 Q 22 I mean, I see it and I know that that's my 146 1 name there. Q Do you recall during the 1992 presidential 2 campaign -- I apologize if I asked this question, but 3 just to be clear -- speaking to Loretta Lynch or 4 5 Roger Martin? 6 Α Yes. I told you that. 7 Did they show you some checks? 8 They showed me some documents, but I don't remember what kind of documents now, what it was they 9 10 were looking at. 11 Did they show you an escrow contract? Q 12 Yes, I believe they did. Did you discuss with them -- did you tell 13 0 14 them that you --15 What I knew about it. I'm sure I don't 16 remember the conversation. 17 Do you recall indicating to them that you didn't believe that Mrs. Clinton or Mr. Clinton's

21 yes. 22 Why didn't you believe they were on the 0

On the document? Yes, I remember that,

signatures were in fact on --

18 19

document, their signatures were on the document? 1 2 That they were or were not? Α 3 O Were not. I didn't think that was their signatures? 4 Α 5 O Yes. 6 Do you have the document? I didn't think Α 7 it was their writing. MR. SCHUELKE: May I have the previous 8 9 question, please. (The reporter read the record as requested.) 10 BY MR. GIUFFRA: 11 12 This would be the escrow contract for sale of lot 13? 13 I don't remember if it was lot 13. 14 Α But it was --15 0 Some sort of a document. 16 Α 17 0 Do you recall anything more about your discussion with Ms. Lynch or Mr. Martin? 18 19 Α No. 20 Did you ever speak to Ms. Thomases about 0 21 Whitewater? 22 No, I didn't talk to her. Ms. Lynch is the 148 person, and Roger Martin. 1 2 Q Do you recall discussing anything having to 3 do with Whitewater with Mrs. Clinton during 1992? No. I don't, because she was on the 4 campaign trail, and I never saw her. I just talked 5 to these people down at the campaign headquarters. 6 7 How many times did you talk to people at 8 the campaign headquarters? 9 Α I would say about six or seven times. They would ask you to come over? 10 0 I didn't go over there. They would call me 11 Α up on the phone and ask me things. 12 Do you recall any of the questions they 13 asked you? 14 15 Α No. 16 Do you recall if they asked you any questions about Susan McDougal providing any records 17 to Mrs. Clinton? 18 19 No. Susan? No. Α 20 Jim McDougal providing any records to 21 Mrs. Clinton? 22 Α No.

1188 149 1 Anything about collecting Whitewater 2 records? 3 Are you referring to those boxes? I think Α they were trying to find out where they were. I 4 don't know. They had a mix-up and they wondered 5 6 where those boxes were. But they were at Yoly's, Mrs. Redden's. 8 Which boxes? 0 9 The boxes you asked me about earlier that 10 were delivered over to the governor's mansion and I 11 took over. 12 They were at Ms. Redden's office? 0 13 They were from Mr. James. You asked me 14 about that a while ago. 15 We are almost to the very end. 16 So, I think everybody was excited because 17 they thought they couldn't locate those documents, and they were at Ms. Redden's office. 18 Were those two boxes of documents? 19 0 20 Α Yes Did Mr. Kennedy have two boxes of documents 21 0 22 as well? 150 1 Α I don't remember how many he had. 2 He had boxes? 0 3 Yes. He had some in Sue Kathy Jones A 4 office. 5 0 Sue Kathy Jones had some documents? 6 Α Yes. 7 Those made it over to the campaign? 0 8 Α Yes-9 Ms. Redden had some documents too? 0 Yes, the accounting documents. Α

10 11 0 Those were brought over to the campaign 12 headquarters? 13 I don't know whether they were or not. Α

You remember people being happy they were 14 discovered at Ms. Redden's office? 15

16 Yes

17

0 Do you know who was happy they were at Ms. Redden's office?

18 19

I'm sure the campaign workers.

20 Those were documents that had previously 21 been at the governor's mansion?

22 No. Mr. James had dropped them off there

		151
1	that day, and I told you I took them to Ms. Redden.	
2	MR. SCHUELKE: Dropped them off there, at	
3	where?	
4	THE WITNESS: At the governor's mansion,	
5	what I already said.	
6	BY MR. GIUFFRA:	
7	Q Mr. James brought you the documents	
8	- ·	
9	them to the First Lady and Mr. Clinton. I just	
10	happened to go by there, and then I took them to	
11	Ms. Redden because she lives out by my house, her	
12	office.	
13	Q Do you recall when this was, the transfer	
14	of the boxes?	
15	A It had to be in like 1990 I thought, or	
16	'91. It was records they had tried to get, that	
17	Mrs. Redden had been trying to get for several	
18	years.	
19	Q Have you ever discussed Jim McDougal with	
20	Mrs. Clinton?	
21	A No.	
22	Q Other than just checking about the taxes?	
		152
1	A Was but not any other mason would I have	152
1	A Yes, but not any other reason would I have	152
2	to discuss him.	152
2 3	to discuss him. Q Do you know whether during the 1980s the	152
2 3 4	to discuss him. Q Do you know whether during the 1980s the Clintons were ever business partners with Jim Guy	152
2 3 4 5	to discuss him. Q Do you know whether during the 1980s the Clintons were ever business partners with Jim Guy Tucker in any investment?	152
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I, BRENDA M. SMONSKEY, the officer before whom the foregoing deposition was taken, do hereby certify that the witness whose testimony appears in the foregoing deposition was duly sworn; that the testimony of said witness was taken in shorthand and thereafter reduced to typewriting by me or under my direction; that said deposition is a true record of the testimony given by said witness; that I am neither counsel for, related to, nor employed by any of the parties to the action in which this deposition was taken; and, further, that I am not a relative or employee of any attorney or counsel employed by the parties hereto, nor financially or otherwise interested in the outcome of this action.

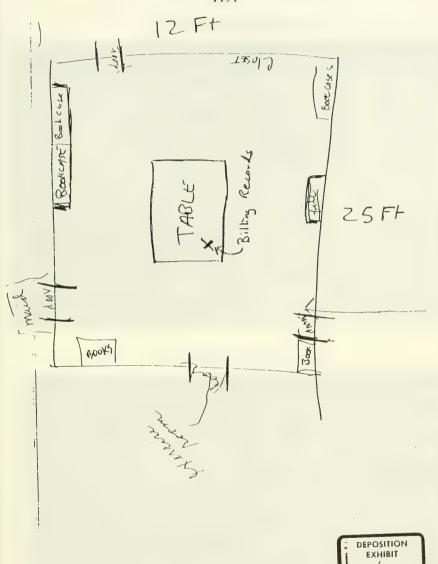
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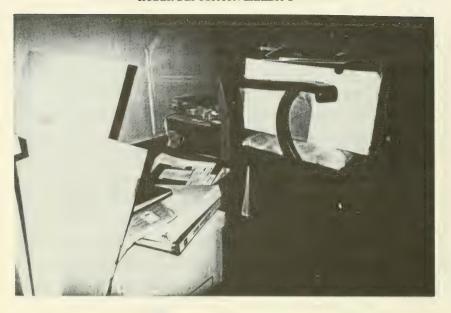
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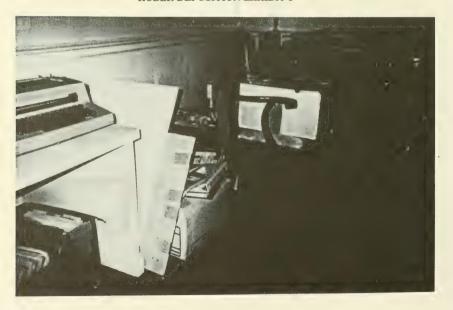
SEPTEMBER 14, 1996



HUBER DEPOSITION EXHIBIT 2



HUBER DEPOSITION EXHIBIT 3



HUBER DEPOSITION EXHIBIT 4



HUBER DEPOSITION EXHIBIT 5



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HUBER DEPOSITION EXHIBIT 6



HUBER DEPOSITION EXHIBIT 7



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HUBER DEPOSITION EXHIBIT 8





DEPOSITION OF TREECA J. DYER IN RE: S. RES. 120

THURSDAY, JANUARY 18, 1996

U.S. Senate,
Committee on Banking, Housing, and Urban Affairs,
Special Committee to Investigate Whitewater
Development Corporation and Related Matters,
Washington, DC.

Telephone deposition of TREECA J. DYER, called for examination pursuant to notice of deposition, at 10:40 a.m. in Room 640–A of the Hart Senate Office Building, before PATRICIA A. ZUBER, a Notary Public within and for the District of Columbia, when were present:

LOUIS J. GICALE, Esq.
Majority Deputy Special Counsel
JAMES S. PORTNOY, Esq.
Minority Associate Special Counsel
U.S. Senate
Committee on Banking, Housing, and Urban Affairs
534 Dirksen Building
Washington, DC 20510
On behalf of the Committee.

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Prior to that I was staff attorney for the

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5 1 Arkansas Highway and Transportation Department. 2 For what period of time? 3 Α I began work there in October of 1989 and 4 left there at the end of June, 1st of July of 1994. 5 And where -- and you were a staff attorney 6 at all times when you were in that department? 7 Yes 8 0 Who was your supervisor there? 9 Α My supervisor there was Robert Wilson. 10 0 And prior to serving as a staff attorney at State Highway Department, where were you employed? 11 12 I was employed by the Alcohol Beverage 13 Control Division, the administration section of the 14 ABC, and I was a staff attorney there as well. 15 0 What period of time? 16 I began work there at the end of November 17 of 1981 and worked there until about the middle of 18 October of 1989. 19 Previously you said you went to the highway 20 department in August of '89? No. October of '89. 21 22 October of '89. So you were at the highway 0 6 department from October of '89 to July of '94? 1 2 Α That's correct. 3 0 And you were with the Alcohol Beverage 4 Control Board from November '81 to October '89? 5 That's correct. 6 0 And where were you prior to the Alcoholic 7 Beverage Control Board? 8 Prior to that, I was completing school and studying for the bar exam. For a short period of 9 10 time in early 1981, I was employed by a state 11 senator, Jim Holstead, as a legislative aide during 12 the 1981 session. 13 But prior to that, in '80, you were in law 0 14 school? 15 Well, I was in school. I was employed by 16 the Arkansas Department of Human Services from March

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of 1975 to June of 197 --

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To June of what?

Department of Human Services.

Yes, what period of time was that?

Oh, March of 1975 to June of 1979.

You were working full-time there while you

were going to law school? 1 2 Yes. I started law school in the fall of 3 '77 as a night student. 4 0 When did you graduate from college? 5 I graduated from college in May of 1973. Α 6 And where did you work after that? 0 7 I went to graduate school. I worked for 8 the University of Arkansas as a graduate assistant. 9 I taught Spanish and worked on a degree of 10 comparative literature. I graduated from the University with a master's in comparative literature 11 12 in January of 1975. 13 Now, when you were at the Alcoholic 14 Beverage Control Board, who did you report to? 15 When I began work there. I reported to 16 Charles Singleton who was the director. 17 Mr. Singleton subsequently left that position as 18 director and Robert Moore took that position, and I 19 reported to him then. 20 When did that occur? 0 21 I don't remember. I don't recall when 22 Mr. Singleton resigned. 1 Now, in preparation for today's --Q 2 Α Let me back up. 3 Go ahead. O 4 A I may be able to give you an approximate 5 date. 6 0 Okay. 7 Maybe 1985-86, something along -- '85 Α 8 or '86. 9 In preparation for your testimony today, 10 did you review any documents or have any discussions 11 with anyone? 12 Yes, I went to the Alcohol Beverage Control 13 Division and pulled the file that was prepared when we presented regulations for adoption to the Alcohol 14 Beverage Control Board in late 1984, early 1985. 15 16 Did you review any records other than those 0 17 records? No, I just reviewed that file. 18 Α 19 Okay. And did you have any discussions 20 with anybody with respect to the substance of your 21 testimony today? 22 I called and asked if the file was still

available and talked to Marilyn Hawley there, H-a-w-l-e-y. Ms. Hawley told me that the file was 2 3 available and that I could come and look at it any 4 time I wanted to. And so I went, made arrangements to go and looked at it, first week in January. 5

O Now, Ms. Dyer, this deposition is being conducted pursuant to Senate Resolution 120. The resolution establishes a special committee administered by the Banking Committee to conduct an investigation involving Whitewater Development Corporation, Madison Guaranty Savings & Loan Association, Capital Management Services, Incorporated, the Arkansas Development Finance

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13 Authority and other related matters. 15 Section 1(b)(3)(A) and (B) of Senate Resolution 120 authorizes investigation and public 16 17 hearings into, A, the operation, solvency and 18 regulation of Madison Guaranty Savings & Loan 19 Association and any subsidiary, affiliate or other entity owned or controlled by Madison Guaranty 20 Savings & Loan Association; B, the activities, 21 22 investments and tax liability of Whitewater

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Development Corporation as related to the Whitewater Development Corporation or its officers, directors and shareholders. This will be the focus of today's deposition.

You were requested to testify earlier this week. This deposition is being taken in advance of public hearings which will continue to occur in January and possibly February of this year. It's possible that you could testify at such a hearing.

We are asking a series of questions. You of course have agreed to testify under oath. If you don't understand any questions, let us know. The stenographer is preparing a record of questions and answers. The deposition will be treated as committee confidential until a commencement of the hearings.

Prior to the hearings, you will receive a letter from the Committee telling you that you may come to the Senate to review a transcript of your deposition and make note of any corrections for transcription on an errata sheet.

I note that you are -- this deposition is being taken over the phone and that you are located

in Little Rock, and we can make some arrangements to
have you review that transcript there so that you
don't have to come to the Senate.

A I would appreciate that.

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Q If you are called to testify at public hearing you will be provided a copy of your deposition transcript four days in advance of your testimony. You may be represented by counsel and I note that you are appearing here today by yourself.

Objection to the form of questions will be noted for the record. Counsel may object on grounds of privilege or relevance. The Committee Chairman may rule on objections where the witness refuses to answer a question.

Do you have any questions at this point?

A No, I do not.

Q Ms. Dyer, on February 20th, 1985, the

18 Arkansas Alcoholic Beverage Control Board promulgated

19 a regulation providing, in part, that any winery,

20 brewery, distillery or rectifying plant operating

21 within the state of Arkansas and licensed by the

22 Alcoholic Beverage Control Division was authorized to

maintain a tasting room on their licensed premises where samples of their products could be given to persons touring such facilities. Are you familiar with that regulation?

A I am.

Q Were you involved with the promulgation of that regulation?

A Yes, I was.

Q Can you tell us what your involvement was with respect to the promulgation of that regulation?

A As part of my duties as the ABC staff attorney, I was responsible for the regulation adoption process. It regularly entailed the director providing to me drafts of regulations or notes about regulations we wanted to adopt. We did regulation adoption on an irregular regular basis, if that makes any sense. Rather than adopt regulations one at a time, we would batch them together, so to speak, and then have several regulations adopted at the same time. I don't believe there was a year that went by when we didn't adopt regulations. And sometimes we

22 would do it twice or three times within a year.

My job was to collect the suggestions for regulations, to either write them or edit them after they had been written by other parties and put them in the same form as the remainder of our regulations. to assign numbers to them, to make sure that the draft of the regulations were ready to present to the board for their review, to make sure that notice went into the Arkansas Gazette at that time as required by the Administrative Procedures Act and, in all other respects, to comply with the procedures outlined by the Arkansas Administrative Procedure Act for the adoption of regulations by a state agency.

Q Do you know how this regulation came to your attention or who requested that you draft this regulation?

A This regulation, if I recall correctly, came to me from the director who at that time was Charles Singleton, I guess.

Q Now, did it come in the form of a note or a memorandum or did it come in the -- or was there some discussion about it and who had an interest in it?

A I think there was discussion about the

1 regulation, and then I think maybe Mr. Singleton
2 drafted the regulation to begin with. Mr. Bennett -3 Don Bennett, the other staff attorney, may have had
4 some involvement in drafting the wording of that
5 particular regulation. I don't have any specific
6 recollection of anything beyond that with this
7 regulation.
8 O So you did not draft it, it was drafted by

Q So you did not draft it, it was drafted by either Singleton or Bennett?

A I don't recall drafting it. If I did draft it, it was based on information that was provided to me by Mr. Singleton as to what should be in that regulation.

Q Did Singleton indicate to you why he wanted such a regulation drafted and whether -- who if anyone had expressed an interest in the regulation?

A No, I don't recall. I just honestly don't recall any conversation. Mr. Singleton did not always share with us who was interested in particular issues.

Q Well, did he indicate why he felt the regulation should be drafted and promulgated?

A Well, I remember at that time there was a company that was trying to get into business, Riley's Red Lion Beer, and they were in and out of the office quite a bit, talking to various staff people on how to get established as a brewery. And I think they visited with Mr. Singleton and that's -- the other thing I know is that there's a winery in Altus, Arkansas operated by Wiederkehr, the Wiederkehr family, and they had a tasting room. And I think they had, they were interested in this regulation because they wanted to make sure that it did not change or affect their ability to provide samples on the premises.

And I guess in that light, while the Red Lion Beer people were asking about how to get started, they also inquired about how to have the same tasting privileges that the winery did.

Q So that prior to this time --

A Including -- I do remember this. I remember including rectifiers in it, not because the rectifiers asked for it, but just so that we would treat everybody equally. Because there was a Hiram

Walker plant in Fort Smith and I think they do or did produce cordials, and I think that there was some question about if we didn't include rectifiers in the language, then we might omit somebody and not provide equal protection.

Q Define "rectifier."

A Uh-huh.

1 2

Q What did you people view as a rectifier, distillers and rectifiers?

A Distillers and rectifiers would be what they'd do over at the Hiram Walker plant where they produced cordials from alcohol and then various fruits and berries.

Q Now, then I take it that this regulation -that prior to this regulation, wineries were allowed tasting rooms but beer breweries were not?

A Oh gosh, I'd have to go back to the regulations that existed before.

Q Well, the reason I say that is that you indicated that the Wiederkehr family was interested in this because they already had a tasting room.

A That's my recollection, that they already

had tasting privileges or what was considered to be a tasting privilege on the premises there.

So that is it your belief, that they already had a regulation that allowed them to do that, and that this regulation expanded this privilege to breweries distillers and rectifying plants?

Yes, that's the best of my recollection. Α Gee, I wish I had my old regulation books with me, because I did keep track at one point of all the regulation changes as they were made, and we noted on each regulation when it was modified or amended and

most of the most recent adoption dates. But the best of your recollection at this point is that this regulation expanded the group of

businesses that could have tasting rooms from 16 wineries to wineries, breweries, distillers and 17

18 rectifying plants?

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Yes, that's the best of my recollection. 19 If you'll -- well --20

O Do you want us to hold for one minute?

Let me put you on speakerphone and I'll

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shut the door on my office so nobody will hear. And let me go to the bookcase because I think I might

3 have that. 4

MR. GICALE: We can adjourn for a second. Off the record.

6 (Discussion off the record.)

BY MR. GICALE:

Ms. Dyer, since recessing, you've had an opportunity to go back and look at some books with respect to legislations?

Right. Α

And what have you found? 0

12 13 I have found that in a regulation book that we published in late '85 or early '86, they printed 14 section 6.2 which is the tasting. It does not appear 15 that that was an amended regulation. It looks like, 16 from what I see and the way I know we did business, 17

that that was a new regulation when we adopted 6.2 18

and not the amendment of an old regulation. Prior to 19

that time there was not a section 6.2 of the 20

regulations, and I think the previous regulation that 21

governed samples did not specifically provide for 22

		19
1	tasting rooms. Section 2.28 subsection 6 prohibited	
2	manufacturers or wholesalers from giving samples to	
3	persons, with some exceptions. There was a provision	
4	for sampling parties with prior approval, but that's	
5	about it.	
6	Q And those sampling so there was a	
7	general prohibition with the only exception being	
8	sampling parties?	
9	A Parties.	
10	Q With prior approval?	
11	A That's correct.	
12	Q And I assume that would be applicable to	
13	wineries, breweries, distilleries and rectifying	
14	plants?	
15	A Yes, that would have been applicable to all	
16	the manufacturers of any kind.	
17	Q Now again, earlier you testified that the	
18	Wiederkehr people had a tasting room?	
19	A Yeah. I think that's an I think that's	
20	a mistake in recollection on my part. If they had a	
21	tasting room legal.	
22	Q Pardon me?	
		20
1	A If they had a tasting room, I don't know	
2	that it are beautiful at the same interest this requilation	
3	that it was legal at that point until this regulation	
	was adopted.	
4	was adopted. Q Now, do you recall who from the Lion	
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4 5 6 7 8 9 10 11 12 13 14 15 16 17 18	was adopted. Q Now, do you recall who from the Lion business was coming into the office to talk to Singleton, was it William Lyon? A I don't know if Mr. Lyon was around all that much. I know Rich Cosgrove was around a lot. Q And Rich Cosgrove worked for the Lion Brewery? A I believe that he either worked for Riley-Lyon or he was going to be their distributor once they made the product. MR. PORTNOY: Could you spell his name for us please. THE WITNESS: Rich, R-i-c-h, C-o-s-g-r-o-v-e. MR. PORTNOY: As long as I've questioned	

one.

THE WITNESS: I think that's real close. 1 2 MR. GICALE: I note on one of the exhibits 3 at the Alcohol Beverage Control office, the name is spelled W-i-e-d-e-r-k-e-h-r. 4 5 THE WITNESS: That's probably right. I 6 never could remember exactly how to spell it. I got 7 it close. 8 BY MR. GICALE: 9 O Do you know whether or not Mr. Lyon had a 10 brewery in operation, and whether or not they were trying to obtain authorization for a brew pub on 11 12 that, at that brewery, at the time there was a 13 request for this regulation? It's my recollection that there was a 14 brewery starting. I don't know how much they were 15 manufacturing or brewing at that point. I didn't 16 17 look at the file that granted the permit to 18 Riley-Lyon for the brewery, but they were in the process of getting the permit for the brewery. I 19 know that they did produce some product. I just 20 don't remember that it sold very well or that it 21 lasted very long. 22 22 Do you know if they produced the product 1 2 before this regulation was promulgated? A I don't know. 3 4 So you remember Mr. Cosgrove coming to see 5 Mr. Singleton. Were there meetings and did you attend those meetings to discuss this regulation? 6 7 I didn't attend those meetings. There were meetings -- or if you want to call them meetings, I 8 don't know how much prearrangement there was, but I 9 know that there was -- there were discussions. I 10 11 just was not a part of them. How did you know that there were 12 13 discussions? 14 A I saw Mr. Cosgrove go back to 15 Mr. Singleton's office, because he had to pass my 16 office first. 17 Q Okay. Did Mr. Singleton tell you about the conversations he had with Cosgrove and why 18 Cosgrove -- what Cosgrove wanted? 19 20 A No. Was there ever a request for something more 21

than a tasting room, and that is to say a regulation

allowing -- regulation or law allowing both the manufacture and sale of these beverages on premises, for instance the use of a brew pub?

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 A Yes, I remember those discussions. And I think at the time the most I heard about those was from Mr. Bennett, in discussions about whether or not that could take place under existing laws. And I think the three-tier system in Arkansas prohibited that because a manufacturer could not also occupy the position of a retailer. And if there was a brewery on the premises of the manufacturer and it was not given away as a sample, then it would have to be sold, and that would make the manufacturer occupy two tiers of the system, which was contrary to state law.

Q Now, were you aware of any attempts to change state law in 1984 or 1985 to allow for this type of manufacture and sale on premises, for consumption on premises and to -- for retail to consumers off premises? Were you aware of any attempts to change this tier system to allow for this type of business activity?

A No, I was not. Don Bennett dealt primarily

with the manufacturers, and if there would have been some move afoot to change the statute, he would have more than likely been involved in those discussions.

Q Well, was this regulation for the tasting room in any way related to attempts at changing legislation on the manufacture and sale on premises -- and retail sale, if you know?

A I don't know.

Q For instance, was this bill, regulation some kind of compromise or was it an offshoot in any way of those discussions, if you know?

A I know that this bill was the best that the manufacturer could do to provide samples and provide any kind of beverage to people on tours, people who come to the brewery or manufacturing place. It was a compromise because of the three-tier system.

Q Now, but when you say it was a compromise, I guess --

A I think they wanted more, but I don't have any specific recollection other than just the general impression that they wanted more and they knew that this was as much as they could get and so that's what 1 they were willing to settle for.

Q When you say they wanted more, did Cosgrove --

A Sale on premises.

Q Pardon me?

A The ability to sell their product on premises.

Q Whether in a restaurant or just at retail?

9 A Right.

Q And do you recall whether Singleton indicated to you that Cosgrove was pushing for the ability to do this by virtue of a regulation as opposed to a change in the law?

A I don't recall Mr. Singleton ever saying anything like that to me. As I told you, Mr. Singleton was pretty closed-mouthed. Pretty tight lipped about who wanted what.

Q But you say it was a compromise. That seems to suggest that somebody did want something more and you may have had some indication that they did want that.

A I think that that came from discussions

with Mr. Bennett.

Q So Bennett may have told you that the manufacturers wanted, by virtue of some regulation, the ability to manufacture and sell beer, wine or distilled spirits?

A Yes.

My discussions would probably have been more with Mr. Bennett as we were working through these regulations.

Q And who was it that concluded that the -- who was it that concluded at the ABC board that the manufacturers could not get that type of regulation, who made the decision that they couldn't get that?

A Well, Mr. Singleton ultimately made that decision. But I think Mr. Bennett was involved in providing him counsel on the issue of the three-tier system, and how this would violate the three-tier system and would be in excess of the statutory authority of the agency to adopt that regulation if it went any farther than the tasting rooms.

Q So there was some conclusion that the law would allow for a regulation that allowed tasting

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that point?

rooms, but that the law as it existed at that point in time would not allow for a regulation that would allow for the manufacture and retail sale?

That's correct, right. You could give it away as a sample on premises, but you couldn't sell it if you were a manufacturer.

And the only way you could promulgate a regulation that allowed you to manufacture and sell it would be to have -- change the law that presently --

Α Certainly.

-- that then existed? 0

You would have had to change the way that -- you would have to change the entire distribution system in Arkansas because, as I said, before it was a three-tier system, and the tiers were specifically prohibited from being commingled. Manufacturers could not have retail outlets. Manufacturers could not own distributorships and vice

versa. Now Mr. Bennett's role, what was his job at 0

He was staff attorney also. Α

0 And, again, he primarily dealt with the manufacturers?

Yes. Many of his duties revolved around brand registration and providing advice to the manufacturers and distributors, as brands would be registered in the state of Arkansas, as promotions would be set up by manufacturers and distributors. So he dealt on a very close basis with the

distributors and, of course, the manufacturers were from time to time in contact with him as they were setting up different promotions.

Do you know where Mr. Bennett is now? 0

He's staff attorney at the ABC. Α

He's still there. Okay. So Bennett indicated that these people wanted more, but there was a determination that the law would not provide for this kind of regulation. And it's your testimony that you do not know whether or not any effort was made to change the law which would allow a regulation, which would in turn allow them to both manufacture and sell at retail --

1 I don't recall. Α

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-- these beverages? 0

In the way of discussion about changing the statute, no, I'm sorry.

When did you first start to discuss the change in this regulation with either Singleton or Bennett, was it in '84 or '85?

It had to be in '84 because the way that the process worked. We presented draft regulations to the board at their meeting on January 15th, 1985, which means that we had formalized the regulations to a point where we could at least provide them with something in the way of a draft by that time. Which means we'd worked on them at least in December and

15 probably earlier than that, probably throughout the

16 fall of 1984. We adopted regulations in July of '84

17 and then in February of '85. So I would assume that

any time after July, after we adopted them in July, 18 19 we began to collect the next set of issues that would

20 be dealt with in regulations.

21 Using that time period as a reference, do you recall whether or not Cosgrove or anybody from 22

the Lion Companies or the Wiederkehr people came in during this summer of 1984 or fall of '84 to talk to

3 Singleton about this issue? 4

I don't have any specific independent 5 recollection of them being there, no.

Do you recall any input from the governor's office with respect to this regulation?

No, I don't. Mr. Singleton would have been the one communicating with the governor's office.

Who would have been the contact in the governor's office with the ABC board? Was there a person from the governor's staff that would have been a liaison to the ABC board and the staff?

Usually it was Betsey Wright.

Do you recall whether or not James McDougal was involved in this regulation, this request to change the regulation?

No, I don't recall his name at all.

Do you recall whether or not the Rose Law Firm or anyone from that firm was involved in this request to change the regulation?

Not to my knowledge.

O Do you recall whether Rick Donovan or 1 2 Hillary Clinton or Webster Hubbell or anyone from that firm was involved with respect to this 3 regulation? 4 5 Not to my knowledge. I had no contact with 6 any of those people. O When Cosgrove came in to talk about the 7 regulation and the brewery that he was representing, 8 do you know what the location of that brewery was? 9 A My recollection is that it was going to be 10 someplace in the downtown area. 11 MR. GICALE: Off the record for a minute. 12 (Discussion off the record.) 13 BY MR. GICALE: 14 15 O You are talking about downtown Little Rock; 16 correct? Yes, I'm sorry, the downtown Little Rock 17 area. I vaguely remember discussions with Don 18 Bennett about where are they going to put this 19 thing. And I think he told me that they were going 20 to take an old building and renovate it and make it 21 the brewery, and that was downtown. 22 32 Do you know whether or not the Lion people 1 had a brewery and were looking to open up another 2 3 one? 4 A No, I don't know anything about that. O Are you familiar with the property that 5 came to be known as, or development that came to be 6 7 known as Castle Grande? A Only barely. I know a little bit about 8 it. I don't think the two are connected. I don't 9 remember Castle Grande being connected with Red Lion 10 11 Beer. When you said that your recollection was 12 the brewery would be located in downtown Little Rock, 13 where was Castle Grande located with respect to that? 14 15 A I was under the assumption that Castle 16 Grande was south of Little Rock. Q Where would 145th Street be? 17 145th Street would be several miles. At 18 least two or three miles south of downtown Little 19 Rock. As I recall, Castle Grande was on the way 20

towards Sheridan, down highway 65 toward Pine Bluff

and Sheridan, but that's --

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All right. So the brewery that was
   discussed as either being in existence or to be in
   existence was one that you believe was going to be
    placed in downtown Little Rock as opposed to some
   place like Castle Grande South?
            That's my recollection.
            Of Little Rock: correct?
       0
            Yes, that is my recollection, that the
   brewery was going to be placed in a downtown
    location.
            Did you ever hear of a proposal to develop
       0
    a brewery on the Castle Grande property?
        Α
            No.
        O
            Did you know James McDougal?
        Α
            Did you know Seth Ward?
        O
        Α
            No.
        0
            Did Seth Ward ever approach either
    Singleton or Bennett or someone on the staff about
    this change in the regulation that eventually
    occurred allowing for a tasting room?
             I have no idea.
                                                            34
             Were you aware of whether Jim McDougal had
    talked to the governor's office, specifically Betsey
    Wright, about some legislation changing the law, the
    then law in Arkansas which prohibited manufacturers
    from selling alcoholic beverages retail?
             I have no knowledge of that whatsoever.
            MR. PORTNOY: Just for the record, I
    believe the testimony was that the witness has no
    knowledge of any efforts to change the law, period.
            MR. GICALE: Right.
            BY MR. GICALE:
             I believe that was your testimony; correct?
        0
             That is my testimony. I don't know who
    talked to who about changes in statutes.
             What you do know is that they wanted
    something more than a tasting room, but you don't
    know -- but -- and what you also know is that the
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    then law would not -- somebody came to the conclusio
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    that the then law would not allow a regulation for
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20
    this?
21
        Α
             Yes.
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MR. PORTNOY: Just for the record, I

believe the witness said she didn't have firsthand
knowledge of this, but rather she got that impression
from her discussions with Mr. Bennett.

BY MR. GICALE:

Q Is that correct?

4 5

 A That's correct. It was my understanding from discussions around the office that more than a tasting room was wanted, but that this would be acceptable in light of the three-tier system and the prohibition on manufacturers or distributors also being involved in retail sales.

Q Did you know Senator James Scott?

A I have talked to Senator Scott on the phone from time to time as he would call and inquire about business for constituents and things like that.

Other than that, no, I don't know senator Scott.

Q Do you know whether or not he was involved in a bill to change the three-tier system law?

A No, I don't know anything about that.

Q Do you know whether or not the township where the Castle Grande development was was a wet or dry township, or whether there was some discussion

1 about that at the board?

A I don't know any -- I don't recall any discussion about that. If Castle Grande is where I think it is I believe it's dry because I believe Grant County is dry. If it's in south Pulaski County then it's wet.

Q What about if I told you that the development was in a combination of townships, Union township which had been merged with Big Rock township?

A Oh. Well, yes, there was considerable discussion about whether or not Union and Big Rock were wet or dry. I remember that.

Q When did that discussion occur and who was involved in that discussion?

A That came about because there was a liquor store we discussed -- there was some research done on wet/dry elections, Mr. Bennett discovered that an area previously thought to be wet was dry and a liquor store existed in that dry area.

Q Who was the owner of that liquor store, if you recall?

		37
1	A Oh, I don't remember. I don't remember at	
2	all.	
3	Q When did that issue come up? Was that	
4	about the same time as this regulation?	
5	A I think it was before.	
6	Q In 1984 or '83?	
7	A For some reason '83, I remember that there	
8	was considerable consternation when we discovered	
9	that there was a liquor store in a dry area.	
10	Q What was done to remedy that, if anything?	
11	Was there an ultimate conclusion that it was dry?	
12	A I think so. I think that liquor store I	
13	think there may have been two liquor stores and they	
14	were allowed to transfer out of that area into wet	
15	areas.	
16	Q Do you know and you're talking about	
17	Union township and Big Rock township; correct?	
18	A Yes, those are in northern Pulaski County.	
19	It's my recollection they're north of North Little	
20	Rock or adjacent to North Little Rock.	
21	Q Now, would they be in the area where you	
22	believe the Castle Grande development was?	
22	believe the Castle Grande development was:	
		38
1	A No, I thought Castle Grande was south of	38
1 2	A No, I thought Castle Grande was south of Little Rock.	38
1 2 3	A No, I thought Castle Grande was south of Little Rock. Q Do you recall any discussion in '84,	38
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		39			
1	Q Do you know whether or not anyone from the				
2	Mitchell law firm and specifically Marcella Taylor				
3	attempted to address a wet/dry issue with respect to				
4	the development at Castle Grande?				
5	MR. PORTNOY: I'm going to object. She's				
6	testified four times that she has no knowledge of				
7	anybody discussing the wet/dry issue with respect to				
8	Castle Grande.				
9	MR. GICALE: Perhaps this name might				
10	refresh her recollection.				
11	BY MR. GICALE:				
12	Q Do you recall, Ms. Dyer?				
13	A No, I don't recall any discussion with				
14	Ms. Taylor, Marcella Taylor.				
15	Q Now going back to the regulation, the				
16	process involved some public hearings or at least a				
17	public hearing; correct?				
18	A That's correct.				
19	Q And in reviewing the documentation from the				
20	alcoholic beverage control division, there was a list				
21	of people who attended the public hearing, and there				
22	was a signature of an E.N. Ward of Saline County. Do				
22	was a signature of an L.iv. Ward of Barrie County. Do				
		40			
1		40			
1 2	you know, were you at that hearing? A Yes.	40			
1 2 3	you know, were you at that hearing? A Yes. Q Do you know who the E.N. Ward was that	40			
1 2 3 4	you know, were you at that hearing? A Yes.	40			
1 2 3 4 5	you know, were you at that hearing? A Yes. Q Do you know who the E.N. Ward was that signed that? A No.	40			
1 2 3 4 5 6	you know, were you at that hearing? A Yes. Q Do you know who the E.N. Ward was that signed that?	40			
1 2 3 4 5 6 7	you know, were you at that hearing? A Yes. Q Do you know who the E.N. Ward was that signed that? A No. Q And, again, did you know who Seth Ward was? A No.	40			
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		41
1	there?	
2	A That sounds about right.	
3	Q Was there any discussion amongst these	
4	people about the regulation?	
5	A About the tasting room regulation?	
6	Q Yes.	
7	A I looked at my notes and I didn't see	
8	anything that indicated that there was any	
9	discussion. It was apparently a noncontroversial	
0	regulation.	
1	Q So was this more or less a pro forma	
12	hearing at this stage? I mean, it had to be done,	
13	but there was very little	
14	A There was no one present speaking in	
15	opposition to it. The regulation was announced,	
16	discussed as to what the substance of it was, what it	
17	would do in an open hearing pursuant to the	
8	administrative procedure act and that was it. I	
19	mean, we were doing what the law required us to do	
20	and that was to hold a public hearing after notice	
21	and opportunity for comment and we received no	
22	comments on this one.	
		42
1	Q Who conducted the hearing, was it you?	
2	A Generally, the director and I would do the	
3	hearing. I would announce the regulation, summarize	
4	it, and then the director would explain why the	
5	regulation had been promulgated and answer any	
6	questions that members of the board or the public	
7	might have.	
8	Q But the board members were present as well?	
9	A Oh, certainly.	
10	Q They would have to vote on that?	
11	A They would have to vote, yes.	
12	Q Who were the members of the board at that	
13	time, if you recall?	
14	A All right. We had Dr. Carl Hyman, Jim	
15	Walters, Guy Newcomb, Ed I think at that time	
16	gosh, I think Ed from Arkansas was a member of the	
17	gosh, I think Ed from Arkansas was a member of the board at that time. I can't remember.	
17 18	gosh, I think Ed from Arkansas was a member of the board at that time. I can't remember. Q I'm sorry, who was that again? You don't	
17	gosh, I think Ed from Arkansas was a member of the board at that time. I can't remember.	

was also a member of the board --Q How do you spell the last name?

43 1 Α -- or wasn't. 2 0 I'm sorry, how do you spell the last name? Harrod, H-a-r-r-o-d. No, I think he'd 3 4 already moved over to the highway commission at that 5 time 6 0 Was there anybody else that you recall? I can't remember if Joe Jones was on the 7 board at that time or not from Texarkana. And I 8 can't remember when F.E. Scott came on the board 9 10 either from --What's that first name? 11 0 12 Α F.E., two initials. 13 Were those all the board members you can 0 14 remember? There were only five members of the board. 15 Α 16 Q Okav. 17 And I know that Dr. Hyman, Mr. Walters and Guy Newcomb were members at that time. Joe 18 Grosecoose may have been a member. I forget when 19 20 they went on and off the board but Marilyn Hawley always kept a list of the board members and what 21 22 their terms were. 44 1 What reason did Mr. Singleton give that you 2 recall for promulgating the regulation at the 3 hearing? 4 I don't remember. A 5 What was the next thing that occurred after the hearing and the vote -- I assume the board voted 6 7 and voted in favor of this regulation; correct? 8 Board member Guy Newcomb made the motion to adopt the regulation, it was seconded by Jim Walters 9 10 and there was a unanimous 5-0 vote to adopt it. And then what occurred next? 11 A Once that was -- once that was completed, 12 13 then the next issue in the regulatory process was review of the rule or the regulation by the 14 legislative council. 15 And how did that occur? 16 17 There's a statute that requires all state 18 agencies to submit their regulations that they adopt 19 to the legislative council subcommittee on rules and regulations to make sure that those regulations 20 21 conform to the legislative intent of the enabling

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legislation of that particular agency.

And there were forms that you had to fill out to provide to the legislative subcommittee explaining the nature of the regulation, why it was necessary to be adopted, what it would change, the economic impact on the consumers, the public, government of the regulation. Who you contacted, who contacted you about the regulation, those kinds of things.

Those forms were filled out on each regulation that was adopted, a separate form for each regulation, sent to the legislative council subcommittee, those were reviewed and then on a specific date Mr. Singleton went over and they asked him any questions they might have had, I did not go, I was not present, about any of the regulations that were adopted and that was the end of the process.

Q And then the rule was ultimately promulgated?

A Well, the rule was adopted and became effective usually within 30 days of its adoption. It was not reviewed by the legislative council until May 15th.

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1 Q It was not reviewed by the legislative 2 council until when?

- 3 A May 15th.
- 4 Q May 15th?
- 5 A That's correct.
- 6 Q But by that time it was already in effect?
- 7 A Yes.

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Q So actually the proposed -- I'm looking at the questionnaire on proposed administrative rules, and it says "proposed effective date of rule March 20th, 1985." And then the hearing date was February

12 20th, '85; correct? Do you recall seeing that

13 document?

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- A Do I recall seeing that document?
- Q Yeah, in the file at the ABC?
 - A Yes, I did see that document.
- 17 Q So it was effective March 20th, '85?
 - A Yes.

(Discussion off the record.)

BY MR. GICALE:

Q Just to go back and clarify something on the wet/dry issue.

47 1 Α Yes. 2 0 Pulaski County, was that where the issue 3 arose? 4 Yes. Α 5 And that's where the two liquor stores 0 6 were? 7 Α Yes. 8 And that is located where with respect to 0 9 Little Rock? It's my recollection that the two townships 10 were merged at some point and one of the townships or 11 at least a portion of it had voted dry. And in the 12 13 process of merging and the documents getting confused, it was assumed that that little pocket of 14 that was dry -- it was assumed that it was wet. And 15 as I recall that location, that geographical location 16 17 was in North Little Rock or just to the north of the 18 North Little Rock city limits if I recall correctly. 19 Now, did this issue come up with respect to 20 old Union township and then two townships, one called 21 Big Rock and one called Hill? 22 Yes, I believe that's right. I think Big 48 Rock township I think that was the Little Rock. And 1 when they merged they became one large township for 2 all practical purposes and the lines got confused as 3 4 to where they had dried up certain areas. 5 Big Rock township was located south of the river? 6 7 I think that's right. And Union was north 8 of the river. And Hill was a part of or was adjacent 9 to or had been a part of Union. 10 And Hill was north of the river as well? I believe so, yes. You are asking me to go 11

there.

Q And you don't know whether or not the issue came up again in '84, '85, or '86 with respect to Castle Grande or a brewery on a Castle Grande development or an IDC development?

not too long after I got there, after I began working

back and recall things from many, many years ago.

And you believe that would have occurred in

I think so. It seems like that happened

Don Bennett did most of the work on that.

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perhaps 1983?

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1	A No, I don't know anything about that.			
2	(Recess.)			
3	BY MR. GICALE:			
4	Q Okay we're back on the record. I just want			
5	to just briefly summarize two things. One with			
6	respect to any legislation allowing the manufacturers			
7	to sell at retail at their manufacturing facilities,			
8	you don't know anything about that?			
9	A That's correct.			
10	Q And with respect to any contacts the board			
11	may have had in '84, '85, '86 with respect to the			
12	wet/dry issue and putting a brewery on a Castle			
13	Grande development or some IDC or Seth Ward property,			
14	you don't know anything about that; is that correct?			
15	A I don't know anything about that.			
16	MR. GICALE: I don't believe I have			
17	anything further at this point. Thank you.			
18	Mr. Portnoy may have some questions.			
19	EXAMINATION			
20	BY MR. PORTNOY:			
21	Q I have very few, Ms. Dyer. My name is Jim			
22	Portnoy, I'm counsel for the Minority. Thank you for			
	50			
1	taking the time to be with us this morning.			
2	taking the time to be with us this morning. A You're welcome.			
2 3	taking the time to be with us this morning. A You're welcome. Q You testified that Rich Cosgrove was around			
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1	around sometimes?	
2	(Discussion off the record.)	
3	THE WITNESS: Yes.	
4	BY MR. PORTNOY:	
5	Q And other distributors were around	
6	sometimes or representatives of distributors?	
7	A Yes, that's correct.	
8	Q And retailers as well?	
9	A Yes.	
10	Q Was it common for people involved in the	
11	alcoholic beverage industry to seek some kind of	
12	regulatory change?	
13	A Could you be more specific in your	
14	question.	
15	Q Sure. You regulated as an agency the	
16	alcoholic beverage industry in the state of Arkansas;	
17	is that correct?	
18	A Yes.	
19	Q Was it uncommon for people involved in that	
20	industry to have regulatory matters that they wanted	
21	to bring to the ABC's attention?	
22	A No, it was not uncommon.	50
		52
1	Q And if a rule prevented someone from doing	52
1 2	Q And if a rule prevented someone from doing something they wanted to do, would it be a normal	52
1 2 3	Q And if a rule prevented someone from doing something they wanted to do, would it be a normal procedure for them to come and try to talk you guys	52
1 2 3 4	Q And if a rule prevented someone from doing something they wanted to do, would it be a normal procedure for them to come and try to talk you guys into letting them do it?	52
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that particular regulation.

Q You had or you answered a number of

questions concerning the wet/dry distinction in two 1 2 townships in Pulaski County. Just to be clear, is it 3 your recollection that that occurred in about 1983? 4 I think so. I've not looked at any 5 documents to refresh my memory on that. And it involved one or two liquor stores 6 7 that accidentally or by mistake had been approved to 8 open in a dry location? 9 That's what I recall of it, ves. Α 10 You don't recall any relation to a real estate development, do you? 11 12 Α No. 13 0 Or any relation to an attempt to build a 14 brew pub? No, I don't. 15 Α 16 Ms. Dyer, to the best of your knowledge, 17 did anyone from the governor's office pressure you to promulgate a regulation concerning brew pubs or 18 19 tasting rooms? 20 I didn't talk to the governor's office. 21 Charles Singleton talked to the governor's office. But nobody pressured you, did they? 22 54 1 No. I was not the person to pressure. Α 2 Okay. Did Mr. Bennett ever say to you that 3 he was under pressure from the governor's office with 4 respect to the regulation? 5 I don't recall any conversation to that 6 effect with him. 7 Would you be likely to remember such a 8 conversation? 9 I don't know. I don't know if I would or 10 not after all these years. 11 Did Mr. Singleton ever indicate to you that 12 he was under pressure from the governor's office with respect to the tasting room regulation? 13 Mr. Singleton didn't share very much of 14 15 those kind of things with us, so I don't recall any 16 conversation about that. 17 Just to summarize, do you recall anything 18 out of the ordinary about this regulatory process?

20 business with Riley's Red Lion Beer. All of a sudden 21 there was somebody who wanted to establish a brewery 22 in Little Rock. We never heard of these people

I tell you what I do recall about the whole

55 before. We had no idea who their backers were, but 1 they had money and they had great plans to establish 2 this brewery and they were, it appeared that they had 3 all the financing they needed and then they got 4 started and then suddenly disappeared. They folded 5 not too long after they went into business and that's 6 7 my biggest recollection of Riley's Red Lion Beer and the Riley-Lyon brewery. 8 Did anybody rush you in any way to draft 9 10 this regulation that you recall? 11 I don't recall. Do you remember any pressure to change the 12 way in which you had drafted the regulation? 13 I don't recall. 14 Would it be fair to say that this was not a 15 16 an especially memorable sequence of events for you professionally? 17 18 That would be fair to say, yes. 19 MR. PORTNOY: That's all I have. Thank you 20 very much. 21 MR. GICALE: I just have a couple 22 questions. 56 1 **EXAMINATION** 2 BY MR. GICALE: 3 Earlier when Mr. Portnoy said did anybody pressure you, I take it that if Mr. Singleton wanted 4 the regulation changed, he would tell you what he 5 wanted changed or drafted or put before the board and 6 7 you would do that; correct? 8 That's correct, ves. 9 So you were responding to his request? 10 Yes. I wasn't the person that the governor's office or anybody else like that called 11 12 when they wanted changes. The person they called was the director. 13 14 Now, earlier I believe I misstated something. I asked you about the Pulaski County 15 location. What I meant to say was the location of 16 17 these townships on the wet or dry issue again was 18 where with respect to the city of Little Rock? My recollection is that the townships in 19 question were either in the city limits of North 20

Little Rock or very close to the city limits of North

Little Rock which would make that all in northern

Pulaski County and I believe northeast Pulaski County. Have you talked to Mr. Singleton about the fact that you would be testifying today? No. A Why did you leave the board in 1989? I had a better job offer at the highway A department. Have you talked to anybody else about your testimony today or since this regulation was enacted about the regulation and the process? Well, when I went to the ABC to review the file I talked to Marilyn Hawley and I asked her if this was all the notes that we had and this is all my file contained and she said that's it. And that would be the extent of your conversations about this issue? Yes. A MR. GICALE: I have nothing further. Thank you. THE WITNESS: You're welcome. MR. PORTNOY: Thank you very much, Ms. Dyer. MR. GICALE: Off the record. (Whereupon, at 12:09 p.m., the deposition was concluded.) TREECA J. DYER

I, PATRICIA A. ZUBER, the officer before whom the foregoing deposition was taken, do hereby certify that the witness whose testimony appears in the foregoing deposition was duly sworn; that the testimony of said witness was taken in shorthand and thereafter reduced to typewriting by me or under my direction; that said deposition is a true record of the testimony given by said witness; that I am neither counsel for, related to, nor employed by any of the parties to the action in which this deposition was taken; and, further, that I am not a relative or employee of any attorney or counsel employed by the parties hereto, nor financially or otherwise interested in the outcome of this action.

Notary Public in and for the District of Columbia

My Commission Expires FEBRUARY 14, 2000

DEPONENT Treeca J. Dujur

ERRATA

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DEPOSITION OF CHARLES R. SINGLETON IN RE: S. RES. 120

FRIDAY, JANUARY 19, 1996

U.S. SENATE,
COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS,
SPECIAL COMMITTEE TO INVESTIGATE WHITEWATER
DEVELOPMENT CORPORATION AND RELATED MATTERS,
Washington, DC.

Deposition of CHARLES R. SINGLETON, called for examination pursuant to notice of deposition, at 10:35 a.m. in Room 640–A of the Hart Senate Office Building, before PATRICIA A. ZUBER, a Notary Public within and for the District of Columbia, when were present:

LOUIS J. GICALE, Esq.
Majority Deputy Special Counsel
JAMES S. PORTNOY, Esq.
Minority Associate Special Counsel
U.S. Senate
Committee on Banking, Housing, and Urban Affairs
534 Dirksen Building
Washington, DC 20510
On behalf of the Committee.

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5 I started to work at the ABC as a staff 1 2 attorney in. I believe it was the spring of 1980. In 3 October of 1981, I was appointed director of the 4 agency and was a director until January of '87. 5 Who appointed you as director of the agency 6 in 1981? 7 Α Governor Frank White, Republican governor 8 who defeated Governor Clinton after his first term. 9 And then you stayed on through '87 in 10 that --11 Α On through -- back then, our governor 12 served two-year terms. I stayed on through two terms 13 of Clinton. 14 0 And prior to going to the ABC board, where 15 did vou work? 16 Well, I graduated from law school in 1978 17 here in Little Rock. Passed the bar exam later on 18 that year and then worked for the law school for a year after that as a legal clinic supervisor. And 19 20 then for a brief period I was a manager of a legal 21 aid office here in the state only three or four 22 months before I went to work for the ABC. 6 1 That would have been in 1980 when you were 2 manager of a legal aid office? 3 It was like fall of '79 to spring of '80. 4 Now, have you reviewed any documents in 0 5 preparation for today's testimony? 6 No, except for regulation that you're 7 concerned with. 8 You're familiar with it? 0 9 A Right. 10 Did you talk to anybody about the substance 0 11 of your testimony today?

I talked to Don Bennett, an attorney for the ABC who worked for me back during that time, briefly yesterday afternoon, and specifically asked him about the area of south Pulaski County that their records out there shows being dry. Just refreshed my memory about what that was, what part of the county we're talking about. Did you speak to anyone other than Mr. Bennett --

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22 0 -- about the substance of your testimony?

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Did you speak about any other aspects -did you speak to Mr. Bennett about the promulgation of the regulation?

Just generally about what he remembered about the regulation, about who was involved and that sort of thing. We discussed that.

Did you speak at all about the legislation that was related to the regulation?

He mentioned something about some legislation. I was not familiar with what he was talking about. I think he said something about a bill that somebody had drafted and, you know, had considered filing, but, you know, that wasn't familiar to me and it seemed to be what he was talking about. I don't think he'd ever seen it either.

Mr. Singleton, this deposition is being conducted pursuant to Senate Resolution 120. The resolution establishes a Special Committee administered by the Banking Committee to conduct an investigation involving Whitewater Development

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Corporation, Madison Guaranty Savings & Loan Association, Capital Management Services, Inc., the Arkansas Development Finance Authority and other related matters.

Section 1(b)(3)(a) and (b) of Senate Resolution 120 authorizes investigation and public hearings into A, the operation, solvency and regulation of Madison Guaranty Savings & Loan Association and any subsidiary, affiliate or other entity owned or controlled by Madison Guaranty Savings & Loan Association; the activities, investments and tax liability of Whitewater Development Corporation and, as related to Whitewater Development Corporation, of its officers, directors

14 and shareholders. This will be the focus of today's 15 deposition. 16

You were requested to testify earlier this week. This deposition is being taken in advance of a public hearing which may occur later this month or in February. We will be asking you a series of questions. You've agreed to testify under oath. If you don't understand any questions, please let us

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The stenographer will prepare a record of questions and answers. The deposition will be treated as committee confidential until the commencement of the hearings.

Prior to the hearings, you will receive a letter from the Committee telling you that you may come to the Senate to review the transcript of your deposition and make note of any corrections for transcription on an errata sheet. If necessary, the Committee -- since you are out of town, the Committee can make arrangements for you to review it in Little Rock. And we can talk about that at some point

subsequent, if you need to do that.

If you are called to testify at a public
hearing, you will be permitted to have a copy of your
deposition transcript four days in advance of your
testimony.

You may be represented by counsel. I note that you are appearing alone today; correct?

21 A Say again? 22 O You're alor

Q You're alone today?

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A Oh, yeah, sure.

Q Objections to the form of questions will be noted for the record. Counsel may object on grounds of privilege or relevance and the Committee chairman may rule on objections where the witness refuses to answer a question.

Do you have any questions at this point?

A No, but I would like to review whatever, you know, whatever the record is here before it's finalized.

Q Okay.

MR. PORTNOY: The transcript, sir?

THE WITNESS: Right.

BY MR. GICALE:

15 Q For any errata. Okay. We will make 16 arrangements to do that.

Mr. Singleton, on February 20th, 1985 the
Arkansas Alcoholic Beverage Control board promulgated
a regulation providing in part that a native winery,
brewery, distillery or rectifying plant operating

21 within the state of Arkansas and licensed by the

22 Alcoholic Beverage Control division was authorized to

maintain a tasting room on their licensed premises where samples of their products could be given to persons touring such facilities.

Do you recall that regulation?

A Yeah, I do recall some things about it.

Q Who was responsible for the promulgation of the regulation at the Alcoholic Beverage Control board?

A I was as director. One of the functions of director is that director writes or promulgates all regulations and submits them to the ABC board of directors.

Q Who -- did you have anybody to assist you in that?

A When I was there, I had two attorneys working for me. Don Bennett was one of them. Treeca Dyer was the other one. Treeca, I think, had more to do with the regulation than Don did, but for the most part, when I was there, I wrote most of the regulations myself.

Q And with respect to this particular regulation, did either Bennett or Dyer assist you in

1 this one?

 A I don't recall.

Q Now, what prompted you to write this regulation?

A Best I remember, I had had some requests from people involved -- at that time, we had a rectifying plant, Hiram Walker plant, up in Fort Smith who was interested in having a tasting room.

9 We also had five or six maybe seven or eight wineries 10 that would have benefited from it and we had a small

11 brewery here in Little Rock that was interested in

12 it. So it was probably some combination of those 13 people that had requested the regulation.

Q Do you know did each -- strike that.

Did someone from each of those businesses contact you directly or did they contact someone at the governor's office about this regulation?

A I don't know who contacted the governor's office, if anybody. I do know that -- I don't remember any specific conversations with these people, but I know that based on how we did business, we probably talked to all of them about it before it

was enacted, before it was adopted. 1

When you say "we," do you mean you would 2 3 have talked to all of them?

A Me or one of the attorneys.

Q Do you know -- do you recall who you talked 5 6 to from each of these businesses?

A There was a guy at Hiram Walker, I think, by the name of Fred Steubal. I believe his name was

Steubal that I had known for several years. I'm sure 9

10 I talked to him about it. There was a guy who

represented the Arkansas hospitality industry that 11

was, you know, involved and interested in all 12

regulations we adopted named Maurice Lewis. I'm sure 13

I talked to him about it. 14

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Down at the little brewery down here there were two guys that were involved in the brewery, a guy named William Lyon, another guy named Scott Riley, and at different times I talked to both those people. I don't remember specifically if I talked to either one of them about this regulation, but I probably did. And then a guy named Lee Guillaume, a

guy named Al Wiederkehr from Wiederkehr Winery, and

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I'm sure I talked to him about it. 1

2 When did these people approach you about 3 this regulation?

Well, this was 11 years ago, and I 4

certainly can't remember any specific dates, but I can tell you that the typical timetable in adopting 6

7 regulations -- and this is not something that was

unusual to do because we adopted regulations every --8

probably every year and a half or two years while I 9

10 was there, maybe more often than that. We would

start working on them probably six months before the 11

actual hearing and start putting regulations 12 13 together.

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0 So this hearing was in February of 19 --

'85, I believe. It was not the only regulation we adopted. Typically we adopted 15 to 30 regulations each time we had a public hearing.

So you would have started working on this, 18 but this regulation in '84? 19

Probably fall of '84, probably. Not, you 20 21 know -- like I said, I can't remember this specific regulation, but the package regulations that we were 22

1 considering, probably would have started working on 2 them in the fall of '84.

Q Now, do you recall whether these people contacted you directly or they contacted the governor's office first and the governor's office told you to contact them?

A I rarely had any contact with the governor's office when I was over there. We pretty much did our own thing as far as adopting regulations, and I don't recall ever being contacted by the governor's office about a regulation.

Q Well, specifically did anybody from the governor's office contact you about this regulation?

A No.

Q Did Betsy Wright talk to you about this regulation?

A Betsy Wright. I don't recall having a conversation with Betsy Wright about this regulation. Like I said, I don't recall having a conversation with them about any regulations.

Q You don't recall. Does that mean you did not have --

A Well, I can't tell you for certain I did not have a conversation. You know, if Betsy Wright had called over and said I want to talk to you about a regulation, I'm certain I would have talked to her, but I don't recall that ever having happened.

Q And you don't recall it happening with respect to this regulation?

A I do not.

Q You do not recall anybody from the governor's office talking to you about this regulation?

A I do not.

Q And you do not recall Betsy Wright talking to you about this regulation; is that correct?

A That's correct.

Q Okay. Now, you mentioned a number of people interested in this regulation. Did they come to you as a group? It was coincidence that they all had an interest in this at the same time or was one pushing this and the others followed?

A I don't recall that. I know I do recall that Wiederkehr Winery was interested in it, and I

1 think that they were probably the lead interest

2 because they had more to gain by it than anybody else 3 at that time.

> O Would it have been your practice at that --

Actually, say that again, please.

Would it have been your practice at that point to determine whether or not others who had a similar interest --

We would know other people that we knew up front would be affected by proposed regulation.

Well, that would happen in a formal way at the hearing; correct, or would that be sometime sooner?

Well, there's a procedure we go through for adopting regulations. I'm sure it's pretty much the same in every state. Publication of a description of the regulation has to be run in the newspaper. We send copies of everything proposed to the Secretary of State for publication and the state register at

20 that time.

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21 Administrative procedures required that 22 anyone who requested notice be given notice of

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1 adoption regulations. We had several people on the,

2 you know, on the list to give notice of any

3 regulation. We would notify those people. And if we

knew specific permit holders at that time that would 4

be affected, we would try to give them notice. I'm 5

6 sure we gave notice to everybody that manufactured

7 any alcoholic beverage in the state that would have

8 been affected by the regulation. Now --9

Now, that's the formal process you just talked about?

Α

Would there have been an informal process where, for instance, perhaps Wiederkehr would have approached you with the primary interest, and then --

We got regulations back then from all different sources. It was up to me, and it's up to the director to decide if somebody comes and proposes regulations to decide whether or not that would be of benefit, you know, to the group, whether it would be harmful to the public, you know, it was one of those

sort of things. 21 22

Was it your practice, for instance, if

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Wiederkehr came forward with a proposed regulation to 1 informally discuss the impact of this regulation for 2 3 instance on the Hiram Walker people or the hospitality industry people or the --4 5 Probably would have been. 6 0 Or the William Lyon small brewery business? Probably would have been. You know, back 7 8 then I had quite a bit of interaction with ABC 9 directors from other states as you might imagine. 10 Several states around us had similar regulations 11 during that period. I know Tennessee had one, Texas had one, Missouri had one and, you know, we were 12 13 trying to do things that were beneficial to the 14 industry as a whole where we could. So that was one 15 of those efforts. Now, where was the headquarters of 16 17 Wiederkehr Wineries? A Altus, little town northwest of here. 18 19 0 How do you spell that? 20 A-l-t-u-s. We have -- maybe a little explanation might be in order. We have a native wine 21 22 law that's probably a little bit suspect constitutionally based on some rulings. But it was a 1 2 law that allows native wineries to sell to 3 consumers. You're the only manufacturer in the state 4 that can sell to consumers legally and a tasting room 5 would have been something that would have helped 6 their sales. They do a lot of tourist deals, buses 7

coming through up there. And so like I say, it was 8 something that probably would have benefited them 9 more than anybody else. 10 Do you recall whether or not initially the

request was something more than a tasting room; that is to say, there was a request that these businesses be allowed to both manufacture beer, wine or alcohol and sell beer, wine, alcohol on the premises of the facilities for consumption on the premises or at retail for consumption off the premise?

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Well, of course we couldn't have had any authority to approve that. You know, we could only approve what was allowed by state law.

Q I understand that. But was there a request to consider that and an opinion rendered that you did not have authority to do it unless the law was

1 changed?

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I don't recall that it was. I know that we have a law today that allows that for breweries, you know, kind of this generic microbrewery law that a lot of states have.

When was that enacted? 0

Probably three or four years ago maybe. Α

8 Do you know if there was an attempt to 0 enact it in 1984 or 1985? 9

Don't recall whether -- I don't recall if it was

12 With respect to this specific regulation, 0 do you recall any specific conversations with William 13 Lyon or Scott Riley about the regulation allowing for 14 15 a tasting room?

16 I don't recall any specific conversations, you know. I probably did have one with one or the 17 18 other of those people since they were in the 19 businesses that would have been affected by it, but I don't recall. 20

21 Do you recall talking to James McDougal 22 about this regulation?

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No. I've never met James McDougal and 1 never talked to him about anything as far as I know. 2 3

Do you recall talking to a Seth Ward about this regulation?

No, I don't know Seth Ward, never met him. I've never talked to him best of my knowledge.

7 O Do you recall talking to anyone from the 8 Rose Law Firm about this regulation?

Fairly positive I didn't talk to anyone 9 10 from the Rose Law Firm.

11 Did you talk to Rick Donovan or Hillary 12 Clinton about this regulation?

Don't know who Rick Donovan is and I've 13 14 never talked to Hillary about any regulation. Did not talk about this one. 15

Did you know Hillary Clinton?

Just socially, you know, political 17 18 functions that I attended. Didn't ever have any 19 dealings with her in her capacity as a lawyer. 20

Did you have any dealings with her with respect to issues at the Alcoholic Beverage Control board or commission?

1 A No.

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 Q Do you know whether William Lyon or James McDougal or someone from the Rose Law Firm or from the governor's office attended the public hearing you had on this regulation?

A Again, I'm going to have to fall back to what would be typical. I don't remember whether William Lyon or his -- I guess Scott Riley maybe was his partner back then. I don't know whether either one of them were there. Governor usually had someone there. Governor usually had a person who was a -- I say usually. Sometimes they can have one there who was the liaison person.

Q Who would that have been at that time?

A Who would it have been? I don't recall.

Q Who was the liaison to the governor's office, the liaison between your department and the governor's office while you were the director?

A Probably would of been several different ones, and I don't recall who they were. They would come occasionally come to an ABC board meeting and just observe. You know, they didn't have the input

into the board, but I guess just to keep up with what was going on.

Q Was this regulation a compromise from something more that the manufacturers had requested?

A It could have been. I don't recall whether it was or not. It could have been -- you know, a lot of times, regulations didn't come out the other end of the hopper in the same form they went in as a proposal, after public input and after everybody had a chance to pick it and decide what was, you know, might be appropriate and what would not be. You know, that's kind of the reason for the process of giving people notice, you know, and asking for input on it.

Q Well, could they have requested that you promulgate a regulation?

A Ask that one again, please.

Q Could these manufacturers have asked that you promulgate a regulation allowing them to sell beer, wine or liquor on the premises?

A Well, they could have asked, but, you know, knowing we didn't have any way to do it, I wouldn't

Q Would you have suggested to them that they would need legislation?

A I'm sure I would.

Q Do you recall whether they suggested that they seek legislation if that's what they wanted to do?

A I don't recall any specific conversation about this regulation. This regulation was not -- like I said, we adopted 20 or 30 at the time. This one did not stand out in my mind over any of the others we adopted. It's not -- it was not a big deal at the time

Q Were you familiar with the senator, James Scott?

16 A I know James.

17 Q Do you know whether or not he had prefiled 18 a bill related to this issue allowing manufacturers 19 to sell beer, wine or liquor on premises?

A No, I don't recall whether or not he ever filed a bill that would allow that.

22 Q Do you know whether he had prepared -- been

contacted to prepare a bill for filing on this issue?

A I know that I didn't contact him.

Q Do you know whether or not any of the manufacturers including Lion or Wiederkehr had contacted him about that?

A I don't recall. I wouldn't have any idea what, you know -- that would not be uncommon for somebody to contact a state senator and ask them to propose a bill. That's how the process works here.

Q Was there any relationship between this regulation and some proposed bill which would allow for something more; that is to say, allowing manufacturers to sell beer, wine or liquor?

A Any relationship --

MR. PORTNOY: I think the witness has testified that he doesn't even know if there was a bill. So that would be sheer speculation not based on any firsthand knowledge.

BY MR. GICALE:

Q Was this regulation related in any way to any legislation that was being contemplated?

A No. The regulations we adopt would only be

based on what the law at any given point in time allowed to be done. We wouldn't be proposing a regulation to do something that might be legal if an act passed.

Q Well, I understand that. But supposing --

A No, you know --

Q Was there any agreement to enact this regulation as a compromise --

A No.

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Q -- and not filing the piece of legislation that would allow for something more?

A Like I said, I don't really know about that legislation and never talked to anybody about it, to the best of my memory. The tasting room thing is something that was common at the time that a lot of states had, and like I said, when I took over that job, our regulations were just in a shambles. And they were antiquated and a lot of what I did was to go through and throw out obsolete regulations and try to update and do things that would foster the industry and do things that seemed to be working in other states, and that's just in my mind that's just

another example.

Q Were you aware of whether James McDougal took steps or had taken steps with the governor or the governor's office to remove any legislative or regulatory restrictions in this area?

A Like I said, I didn't know James McDougal, and what relationship he might have had with the governor's office I don't have any knowledge of. And James McDougal, to the best of my knowledge, was not involved in the alcoholic beverage industry while I was there, so I, you know --

Q Do you know whether McDougal had ever written a letter to Betsy Wright in the governor's office attaching a copy of a proposed bill providing that beer manufacturers licensed by the Alcoholic Beverage Control board could sell beer at retail and restaurants located on the premises?

A No knowledge of any such letter. Like I said, I didn't know James McDougal and didn't know he had any interest in the alcoholic beverage industry at that time. You know, we dealt basically with -- as far as adopting regulations with people that had

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1	permits and had businesses that would be affected.	
2	Q Were you ever aware of the fact that	
3	McDougal had told Betsy Wright that the governor had	
4	made a commitment concerning such a bill?	
5	A No.	
6	Q I believe you said you did not know Seth	
7	Ward; is that correct?	
8	A Did not, do not.	
9	Q Did you ever hear of a proposal to develop	
0	a brewery on the Castle Grande or IDC property?	
1	A No, I don't recall ever having heard that	
12	until here, you know, within the last year or so.	
13	Q Okay. But you did not hear it when you	
14	were director; is that correct?	
5	A Not as far as I recall.	
16	Q Do you know where the brewery that William	
17	Lyon owned was located at the time that	
8	A Yes, it was	
9	Q At the time that the regulation was	
20	promulgated or proposed?	
21	A Uh-huh. It was on a highway here that we	
22	call Cantrell Road. It's in downtown Little Rock.	
		30
1	Q How do you spell that road?	30
1 2	Q How do you spell that road? A C-a-n-t-r-e-l-l and was right, practically	30
		30
2	A C-a-n-t-r-e-l-l and was right, practically	30
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		31
1	build a brewery. The process would be that they	
2	would make an application with the ABC for a license	
3	to operate a brewery contingent on it being built at	
4	a certain location. No application was ever made to	
5	my knowledge, you know, the application always would	
6	precede any action to build anything.	
7	Q Were you ever made aware of an issue with	
8	respect to whether or not Union County, which merged	
9	with Big Rock Township, whether or not that was wet	
10	or dry, did that issue come to your attention in	
11	'84-85?	
12	A Down the	
13	Q I'm sorry, in 1984-85 or '86?	
14	A Well, Union County is a county down on the	
15	southern border of Arkansas.	
16	Q I'm sorry. Union Township.	
17	A The question again, please.	
18	Q Were you ever requested to look into the	
19	issue of whether or not Union Township, which had	
20	merged into Big Rock Township, was a wet or dry	
21	township for purposes of operating a brewery or	
22	A Our position would have been that it was a	
		32
1	dry township. I don't think there would have been	
2	any question about that. We have	
3	Q Why is that?	
4	A Well, we back then our enforcement arm	
5	would maintain a map of the state and	
6	MR. GICALE: Hello?	
7	MR. PORTNOY: Sir?	
8	(Discussion off the record.)	
9	MR. GICALE: Mr. Singleton, we would like	
10	the record to reflect that the phone was	
11	disconnected, and that we were required to call you	
12	back. And now we'd like to remind you that you're	
13	still under oath, and we'd like to have the	
14	stenographer read back the portion of your answer,	
15 16	the last portion of your answer, the answer that you	
17	gave before you were disconnected so that you can	
18	finish the answer to the question.	
19	(The reporter read the record as requested.) BY MR. GICALE:	
20		
	Q Can you finish the balance of that answer?	
21	A It's been a few minutes now, but I think it	

was regarding the dry area in south Pulaski County on

Union Township. If we got an application on any area 1

of the state, we would rely on the records that we 2

3 had at that time about what was wet and what was dry.

and, you know, the enforcement arm of the ABC would 4

5 maintain what we considered to be our official map.

6 And when we got an application, we would assign it to 7

the enforcement arm to do an investigation. 8

If they came back and told us that the application site was lying in an area that we 9

10 believed to be dry, then we would do one of two

things. We would send the application back and tell 11

them that it's in a dry area and we can't accept it. 12

Or we would process it and deny it because it would 13

14 be in a dry area.

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Like I said, I don't recall ever getting an application for any brewery in south Pulaski County, so that would not have been done in this case.

18 Well, short of a formal application, do you 19 recall any informal discussions with anyone in 20 '84, '85, '86 or even 1987 about a proposed brewery

in Union Township which had been incorporated into 21

22 the larger Big Rock Township?

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1 I do not recall any conversations about 2 that.

And more specifically with respect to that issue, do you recall any conversations with Richard Donovan or Hillary Rodham Clinton from the Rose Law Firm?

7 Like I said, I don't know Richard Donovan 8 and I've never spoken to Hillary Rodham Clinton about 9 any ABC business while I was there.

Did you speak to Seth Ward or James 10 11 McDougal about this issue?

I answered a few minutes ago I don't know 12 13 Seth Ward and I don't know James McDougal except what 14 I see in the news. Never spoke to either one of them 15 to the best of my knowledge.

16 Did you talk to William Lyon about this 0 17 issue?

I don't recall having any conversations 19 about a brewery in south Pulaski County. I did talk 20 to William Lyon, as I said a little while ago, about adopting a tasting room regulation, but one in my 21

mind has got nothing to do with the other. 22

Q If someone wanted to put a brewery in a township that was voted dry, how would they go about doing that? Would there be some kind of application process or voting process that they would have to go through to resolve that problem?

A Yes, there would be an application. They would apply for a brewery permit on forms that the ABC would provide to them. When the ABC received the application, like I said, it would be assigned to an enforcement, the enforcement people who would do the investigation, report back whether or not it was in a wet or a dry area.

Q Well, supposing it was in -- the response was that it was in a dry area, was there something else the ABC board or commission could do?

A Not to my knowledge. You know, if it had been voted dry, it would have been denied because it was in a dry area.

Q So there was no discretion?

A No discretion on that.

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Q If someone wanted to change it, how could they change that?

A Under our state law, when an area votes -- an area in an otherwise wet county votes dry, then in order to ever get wet again, the same geographical area has to come back and have a subsequent wet/dry election. In other words, if Union Township had voted dry, then Union Township as it existed when it voted dry would have to come back and have a subsequent election.

And, you know, when I was there, we denied. I recall denying several permits in this dry Union Township because the area was dry, several applications.

Q Do you know when those requests were made, those applications were made and who made them?

A I remember two or three convenience stores down there. Gasoline stations that applied for permits and we denied them because they were -- because it was in a dry area. I mean, that was kind of routine. That area plus a lot of others.

Q Do you recall who it was that requested permits for those convenience stores or gas stations?

A No.

1 Do you recall when those requests were 2 made?

A No. Sometime during the five and a half years I was director of the agency.

Do you know whether or not there was a convenience store and/or gas station on the property that was known as Castle Grande or IDC?

I don't know anything about Castle Grande and really don't even know where it is. The answer is no. I do not know.

Would there be a record of a request for convenience store and/or gas station at the board?

I doubt it. I have been over looking for records at various times over the years and they tell me they only keep records for three years over there now, you know, the written paper records. So I don't know. I guess there could be, but I doubt if there would be any over there.

19 MR. GICALE: Off the record.

20 (Discussion off the record.) 21

BY MR. GICALE:

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22 Mr. Singleton, were you ever asked to

consider the effect of a case entitled Village of

American Falls versus West, an Idaho Supreme Court

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3 case which held where a new county is created from a territory which is formerly comprised of dry counties 4 5 and also a territory that was formerly part of a wet 6 county and there was no legislative provision as to 7 whether the new county shall be a wet or dry county 8 until a local option election is held, the entire 9 newly created county becomes wet? Are you familiar with that case and has that ever been referenced in 10 11 any request to put a brewery or other kind of

manufacturing facility for beer, wine or alcohol in

Arkansas in a township that's designated dry?

No, I'm not familiar with the case and no, it was never submitted to me for consideration in regard to a brewery. We would go with what our own state supreme court says on the issue. We would have gone with it.

18 19 So you did not believe you had any 20 discretion at the time if that was the case, if a township that was voted dry, Union Township was voted 21 22 dry in 1953, was no longer in existence and was

incorporated into a larger Big Rock Township?

A We would not have had any discretion. Our position would have been -- our position would have been to deny any application in an area that was dry. And if the applicant felt that he had a grounds for an appeal with the Supreme Court and then he'd have the right to take it as far as he wanted to.

Q So your decision could be appealed obviously to a court?

A Right, under the Administrative Procedures Act, my decision as director was appealable to the five-member commission or board, as I referred to them earlier. Their decision would be appealable to the circuit courts and that decision would be appealable to our court of appeals or supreme court.

Q And under what circumstances could it be appealed if it was arbitrary or capricious or unreasonable?

A That's the standard. Substantial evidence test that the Administrative Procedures Act sets out.

Q So arbitrary, capricious and substantial evidence, is that it?

A Well, it's all rolled into one under our law under Administrative Procedures Act. The action can be overturned if it's arbitrary, capricious, not supported by substantial evidence, but our courts generally refer to those appeals as the substantial evidence test because that's typically the issue that they boil down to.

Q Do you know an individual by the name of Ken Shemin, S-h-e-m-i-n?

A No.

Q Now, again if you were to determine whether or not those records existed at the Alcoholic Beverage Control division, and what I'm talking about are the requests, for instance, to construct a brewery in a certain place, that would be in the form of an application, or what is the title of the document that would exist if it exists?

A If someone had really made an effort to put a brewery or any other kind of permit anywhere, typically they would make an application. An application would allow somebody else to do the work for them and determine whether or not an area 1 qualifies for a permit.

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But what would be the title of the document if we were to attempt to --

- What document are we speaking of exactly?
- The application you were talking about.

6 Would it be an application? 7

- A I guess application for a brewery permit is what you are talking about.
- Q And your understanding is that those only go back three years at this point?

You'll have to check with the ABC division and ask them that question. But what I said earlier is that's what they tell me when I've gone out looking for records on various things.

- So then to sum this up, you know nothing about any legislation that may have been discussed and related to the tasting room regulation that was enacted in February of 1985?
- 19 I do not. Α
- 20 And you know nothing about any attempts to 21 place a brewery, construct a brewery on Castle Grande 22 property, any attempts to do that in '84, '85, or '86

42

or '87?

I do not. Α

And you were never contacted by the governor or anybody by the governor's office with respect to this tasting room regulation or any legislation related to if -- or related to the manufacturer and sale of beer, wine or liquor on the premises of a manufacturing facility; is that

9 correct?

A Was never contacted by the governor. If someone on his staff contacted me about the regulation, I don't recall it. Back then it would not be unusual for Betsy Wright or whoever might be chief of staff at the time to call over and say what's going on with this issue or that issue. But I don't recall any specific conversation about this.

- While they might call to see what's going on with respect to an issue, would they ever propose any regulations that you in turn would propose?
- 20 No. Their policy was pretty much hands off 21 as far as the ABC when I was there. There was very

22 little communication about anything.

43 When you say "their policy," who are you 1 2 referring to? 3 On their staff, governor and governor's Α 4 staff. 5 0 Since 1985, '86 or '87, have you talked to anybody about this tasting room regulation or --6 7 You are saying since then? A 8 0 Yes. No. The only -- I think I told you a 9 couple few weeks ago we talked, some reporter had 10 called me from Washington Post or some other 11 publication sometime this past year and that's the 12 first conversation I'd ever had with anybody about 13 14 any of this. And so that was this year; is that correct? 15 0 16 Α Right. Well, last year. Or last, 19 --17 0 In the summer I think of '95. 18 Α I believe I called you in December of this 19 0 year; is that correct? 20 21 I think so. Α And you were referring to earlier that 22 44 1 summer? 2 A A couple months prior to your call I 3 received a call and talked briefly to a reporter. I don't recall exactly who it was with. I think it was 4 5 Washington -- is there a Washington Post? 6 Yes. 0 7 Α I think that was it. 8 But other than that, you've had no conversation with anybody else about this tasting 9 10 room regulation? 11 No. Α 12 0 Or the proposed --13 My conversation with Don Bennett yesterday A 14 afternoon. 15 Right. Or the legislation that I referred 0

Q And did you ever have any conversation with anybody about any application for a brewery permit in the Union Township which eventually became part of

And of course wouldn't have had any conversations

about something I don't know about.

Don't know anything about the legislation.

to?

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45 Big Rock Township? 1 2 No. A 3 MR. GICALE: I have nothing further at this 4 point. 5 **EXAMINATION** 6 BY MR. PORTNOY: 7 Mr. Singleton, my name is Jim Portnoy. I'm counsel for the Minority and I don't have much to 8 9 add, but I do have a few questions. 10 Α Okav. 11 I believe you testified earlier that when 0 12 you became director of the ABC, you considered the regulations to be less than perfect? 13 Yeah. They were in pretty much of a mess 14 15 as a matter of fact. 16 And you undertook an effort to update the 17 regulations? 18 I did and republished them. Republished 19 the book of regulations while I was there and had 20 several hearings to adopt regulations in all areas 21 over the course of the five years I was there. 22 So you were routinely revising your 46 1 regulations during your tenure? 2 Pretty much constantly we were rewriting regulations, and periodically, we would hold a public 3 4 hearing that's required to adopt new regulations. I don't remember how many times we did it, but several 5 times over the five-year period we had public 6 7 hearings to adopt regulations. 8 In connection with your efforts to update the regulations, sir, did you routinely meet with 9 representatives of the industry that you regulated? 10 11 Α Yes. 12 0 Why did you hold such meetings, sir? For a couple reasons. You know, I felt 13 like it was part of the job to get along with people 14 15 in the industry as best we could since we were regulating those people. But more importantly, the 16 17 Administrative Procedures Act required that we give 18 notice of intended action to the public and the

20 Would it have been normal or usual for the 21 people you met with to make suggestions about ways that your regulations could be improved or updated? 22

people affected, and we tried to do that.

- 1 A Yeah. It was routine that that would be 2 the case.
- Q You also testified, sir, that you recall the impetus for the tasting room regulation coming from the industry itself; is that correct?
 - A Yeah, I believe it did.
 - Q Did you view the regulation as part of your efforts to update and modernize the ABC regulations?
 - A I did.

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- Q Was there anything special about the enactment or promulgation about section 6.2 that you recall?
- A No, I guess that's the reason I don't, you know, don't have any specific memory of it. It's just one of a group of regulations that we considered and adopted. At the same time there had probably been 15 or 20 others, that other people would have been interested in and would have communicated
- 19 about. This one does not stand out in my mind over
- 20 any of the others.21 O Would you do
 - Q Would you describe it as routine?
- 22 A Yes.

- Q You indicated that you had a passing relationship with Mrs. Clinton. You met at fundraisers or other social events. Maybe you didn't say fundraisers.
- A Well, I didn't do fundraisers back then. I tried to stay away from those type things because I didn't have any funds. You know, little receptions at the governor's mansion or some little to-do at the capital, things like that. I didn't know her personally, but I would, you know, I knew who she was.
- 12 Q She was a prominent --
- 13 A Participated in a little small talk with 14 her a few times.
- Q She was a prominent person in the state of Arkansas, wasn't she, sir?
 - A Yes, she was.
- 18 Q You would have remembered if she had called 19 you and tried to influence you in any way, wouldn't 20 you?
- A I would have. Like I said, I've never talked to Hillary in her capacity as an attorney

about anything while I was there.

I know you've addressed this question, sir, but I'd like the record to be clear. Did anyone from the governor's office or anyone purporting to be acting on behalf of the governor ever pressure you in any way to draft or promulgate a regulation permitting tasting rooms that you recall?

No. they did not. Α

The regulation we've been discussing was approved by the ABC board on February 20th, 1985. Are you aware of that, sir?

Α Yes.

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Mr. Gicale asked you about legislation concerning brew pubs specifically and you testified repeatedly that you had no knowledge of any such legislation. That's correct, isn't it, sir?

Correct.

0 If I were to tell you that a state senate bill to permit brew pubs was withdrawn on February 18th of 1985 two days before the regulation was approved, would you say that was an unrelated coincidence?

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I would say so. I would be surprised if that was the case, but it very well could have been. Like I said, I didn't know anything about a bill.

It's been suggested in the media, sir, that the similarity in timing suggests a relationship between the two events. You're not aware of any such relationship, are you, sir?

Α No. I'm not.

And as the director of the ABC, you're the person who would be most likely to be aware of such a relationship, aren't you sir?

I would be the one who would have been involved in discussions if there had been discussions, that's correct.

Are you comfortable then, sir, in saying there absolutely was no relationship between the two events?

There was no relationship that I can Α recall. Like I said, I don't recall any bill or discussing any bill with anyone.

MR. PORTNOY: That's all I have,

22 Mr. Singleton. Thank you very much for making

1	yourself available to us this morning.
2	THE WITNESS: You're welcome.
3	MR. GICALE: I have nothing further.
4	(Discussion off the record.)
5	(Whereupon, at 11:50 a.m., the deposition
6	was concluded.)
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9	CHARLES R. SINGLETON
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I, PATRICIA A. ZUBER, the officer before whom the foregoing deposition was taken, do hereby certify that the witness whose testimony appears in the foregoing deposition was duly sworn; that the testimony of said witness was taken in shorthand and thereafter reduced to typewriting by me or under my direction; that said deposition is a true record of the testimony given by said witness; that I am neither counsel for, related to, nor employed by any of the parties to the action in which this deposition was taken; and, further, that I am not a relative or employee of any attorney or counsel employed by the parties hereto, nor financially or otherwise interested in the outcome of this action.

Notary Public in and for the District of Columbia

My Commission Expires FEBRUARY 14, 2000

DEPONENT Charles R. Singleton

ERRATA

PAGE	LINE	CHANGE FROM CHANGE TO REASON
/3	21	Starke name "ice Guillaume". I do not know Anyone
		by that Name a doubt I said it.
<u>17</u>	14	"And" the state register - "in" the state register - typo
		



DEPOSITION OF LANCE RANDELL MILLER IN RE: S. RES. 120

MONDAY, JANUARY 22, 1996

U.S. Senate,
COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS,
SPECIAL COMMITTEE TO INVESTIGATE WHITEWATER
DEVELOPMENT CORPORATION AND RELATED MATTERS,
Washington, DC.

Deposition of LANCE RANDELL MILLER, called for examination pursuant to notice of deposition, at 2:20 p.m. in Room 534 of the Dirksen Senate Office Building, before BRENDA M. SMONSKEY, a Notary Public within and for the District of Columbia, when were present:

DOUGLAS R. NAPPI, Esq.
Majority Counsel
MARK J. BRENNER, Esq.
Majority Assistant Special Counsel
JAMES S. PORTNOY, Esq.
Minority Associate Special Counsel
U.S. Senate
Committee on Banking, Housing, and Urban Affairs
534 Dirksen Building
Washington, DC 20510
On behalf of the Committee.

SHERRY BARTLEY, Esq. Mitchell, Williams, Selig, Gates & Woodyard 320 West Capitol Avenue Suite 1000 Little Rock, Arkansas 72201 On behalf of the Deponent

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Deposition Number	IDENTIFIED
Miller Exhibit 1	32, 1331
Miller Exhibit 3	94, 1332
Miller Exhibit 4	138, 1335

anticipated to occur in late January and February. You may be called to testify at these hearings.

We will ask a series of questions. You will be testifying under oath. If you don't understand the question, let us know and we will rephrase the question. If you need a break, please let us know and if it is an appropriate time, we will go off the record and take a break.

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The stenographer will prepare a record of questions and answers. The deposition will be treated as committee confidential until the commencement of hearings. Prior to the hearings, you will receive a letter from the committee telling you that you may come to the Senate to review the transcript of your deposition and make note of any

5 1 corrections for transcription on an errata sheet. 2 If you are called to testify at a public hearing, you will be permitted to have a copy of your 3 4 deposition transcript four days in advance of the 5 hearings. 6 You may be represented by counsel. Are you 7 so represented? 8 MR. MILLER: Yes. 9 MR. NAPPI: Could counsel please state your name and business address and phone number for the 10 11 record. 12 MS. BARTLEY: Sherry Bartley, Mitchell, 13 Williams, Selig, Gates & Woodyard, 320 West Capital, 14 Suite 1000, Little Rock, Arkansas 72201. Area code 15 501-688-8860. 16 MR. NAPPI: Objections to the form of 17 questions will be noted for the record. Counsel may 18 object on grounds of privilege or relevance. The 19 Committee chairman will rule on objections where the 20 witness refuses to answer a question. 21 Please swear in the witness. 22 Whereupon, 6 1 LANCE RANDELL MILLER 2 was called as a witness and, having first been duly 3 sworn, was examined and testified as follows: 4 **EXAMINATION** 5 BY MR. NAPPI: 6 Q Mr. Miller, please state your full name for 7 the record. 8 Α Lance Randell, R-a-n-d-e-l-l, Miller. 9 10 11 Your present business address. O 12 Same as Ms. Bartley described. I can give 13 it to you again if you want it. That's fine. What is your present position 14 15 at the Mitchell, Williams firm. 1ó I am a member of the professional limited 17 liability company of which this firm does business, 18 equivalent of a partner since we are members of the 19 LLC. 20 When did you become a partner at the firm, 0 21 approximately?

I think it was January of 1990, but I'm not

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1263 7 sure. It could have been '91. 1 2 O When did you join the firm? I have been here, left, came back. I 3 4 joined the firm in 1982 as a law clerk while I was 5 still in law school, clerked with the firm until I 6 graduated in '85. Practiced law here from '85 until the end of July of '87, left in July of '87 and 7 practiced in my hometown of Jonesboro through August 8 of '89 and moved back and have been here since August 9 10 of '89. When you were practicing in Jonesboro, were 11 0 12 you a solo practitioner? I was a member of a firm there. 13 Α 14 Please state the name of the firm. 0 A The name then was Walker, Snellgrove, 15 Laser & Langley. Mr. Walker died while I was there 16

Laser & Langley. Mr. Walker died while I was there and the firm has been renamed Snellgrove, Laser, Langley, Lovett & Culpepper, I believe is the correct

18 Langley, Lovett & Culpepper, I believe is the correct 19 name.

19 name.

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Q You were employed at the firm beginning in '82 as a law clerk while you were at law school?

A That's correct. It may have been '83. I

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believe it was '83 because I started in May of '82
and would have started clerking after my first year.
So it was probably '83.

Q Run us through your educational history briefly from high school on.

A Graduated from Jonesboro High School in '78, entered Arkansas State from '78 to '82.

8 Graduated in '82 with a BA in political science.

9 Went to law school here in Little Rock from '8210 through '85.

Q During that time you were employed as a law clerk while you were attending law school, were there any other jobs you held during your attendance of college or law school?

A During college, I was a full-time farmhand. My parents and I farm rice and soybeans north of Jonesboro. I was a full-time farmer.

Q Okay.

A When I graduated from law school, I worked landscaping work wherever I could get somebody to pay me a dollar.

Q Fair enough.

9 1 Did you speak to anyone other than counsel 2 prior to this deposition regarding your testimony? 3 No, other than Ms. Bartley or other members of our firm. 4 5 What other members of the firm did you 6 discuss your deposition with? 7 We discussed some of the issues involved. 8 Maurice Brenner, who Mr. Mitchell initially had all of his conversations with, I was sitting in the room 9 when Mr. Brenner and Mr. Mitchell were talking. John 10 11 Selig, our managing partner, I advised him I was 12 scheduled to do this today. 13 That's it as far as people you have discussed your deposition with? 14 15 That's correct. When you say discuss the 16 deposition, yes. 17 What did you discuss with Mr. Mitchell? 0 18 Α To be honest, about how many different times we were scheduling this thing. He and 19 Mr. Brenner were doing all the talking. I was 20 21 basically listening. 22 Did you discuss the substance of what your 10 1 testimony would be with either Mr. Mitchell or 2 Mr. Selig? 3 Α He knows. The one memo that I drafted, 4 yes, he is aware of the memo and my phone sheet. So, 5 I mean yes, if that's the substance of my deposition, 6 ves, we discussed that. 7 What was the nature of that discussion? 8 I drafted a memo back in '87 as to what these allegations were and -- I don't know if they 9 10 were -- he didn't try to influence my testimony in 11 any way. It was trying to recollect what went on 12 back in '87 as may have been reflected in the memo. 13 This was Mr. Selig or Mr. Mitchell? 0 14 That was Mr. Mitchell. Α 15 Okay. What about with Mr. Selig? Q We were also asked to have present a 16

A It was basically what that was all about.

On So he provided you with background on how that 1987 letter was compiled?

September of '87 letter, and that has Mr. Selig's

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name on it.

Q

Okav.

Bill Simmons who was the local Associated Press guy.

They had -- I talked to them to the extent

Did you talk to them or discuss the

substance of your memo or notes?

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necessary to confirm that they had a copy of my phone 1 message and a copy of my memo. The one question that 2 I do recall was he asked me if they were accurate, 3 and I stated that they accurately described the 4 allegations that had been made. 5 6 That was pretty much the extent of it. I 7 didn't think I could go into anything from an attorney-client privilege standpoint. 8

Q What do you mean they accurately described the allegations that had been made?

A Basically confirmed that the memo -- I
basically viewed myself as being a reporter, or I
guess a stenographer, in that the memo accurately
reflects what Pat Heritage said to me, not that the
allegations were true, but that I accurately wrote
down what she said that Greg Hopkins said that
Mr. Peacock said.

MR. PORTNOY: To clarify, your statement was "not that the allegations are true"?

THE WITNESS: Right.

THE WITNESS: Right.
BY MR. NAPPI:

BI MR. NAPPI:

Q It is your testimony that you confirmed for

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them that this was an accurate transcription, if you will, of what you were told by Ms. Heritage?

A Yes.

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4 Q And you did not go into the substance of 5 the allegations, providing them with corroboration?

A That's correct. The only thing I do recall
that we did try to corroborate, he had asked
something about there were some statements about
getting the Peacock bankruptcy dismissed and did we
follow up and file the foreclosure actions and
everything up in White County. He had been unable to
find them in White County.

We confirmed that yes, they had been filed in White County and sent him back up there to find the pleadings if he wanted to file them. We did confirm, and those were a public record and there wasn't anything attorney privileged about the fact that the lawsuits had been filed. The that's the only other matter that we did at least confirm.

Q Have you told anyone else about your deposition that you haven't mentioned?

A Probably my wife.

15 Other than family? 1 0 2 No. My secretary probably knows that I'm 3 in here today. 4 Did you discuss or have you discussed the matters that are the subject of this Senate Special 5 Committee's investigation with any representative or 6 member of a committee from the House of 7 Representatives looking into these matters? 8 9 A No. I mean, I don't know the full extent 10 of what you are investigating. But I can still answer it no, I have not talked to anyone other than 11 the people I have previously told you about these 12 13 matters. 14 Okay, fair enough. 15 If we could return to your employment at 16 Mitchell, Williams. 17 All right. A You joined the firm full time as an 18 associate in 1985? 19 20 Α Yes, sir. Prior to that, you were a law clerk? 21 Q 22 Α Yes, sir. 16 1 Q From '82 to '85? I think it is going to be '83. 2 Α 3 '83 to '85. Could you explain the circumstance of your 4 5 hiring as a law clerk. 6 A I'm not sure I understand the question. 7 They needed somebody to --8 How did you come to be employed as a law clerk at Mitchell & Williams? Just give us the 9 10 background. 11 As I recall it, they either posted a notice 12 at the board or I think a friend of mine, a guy named Roger Colbert, said hey, the Mitchell firm is looking 13 for somebody. I think I called somebody up here and 14 they said yes, we need some people, come interview. 15 16 I came and interviewed and they hired me. Spell the last name for the record. 17 0 The gentleman who told me there might be a 18 position at the Mitchell firm? C-o-l-b-e-r-t. He is 19

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an attorney in Paragould, Arkansas.

particular department of the firm?

As a law clerk, were you attached to any

1 Yes. I was in the -- well, no, we weren't 2 specifically assigned to any particular area. I kind 3 of evolved into the bankruptcy area. We had several 4 large farm cases going on, and since I knew what a 5 combine and a tractor was and how much beans they should be producing. I kind of ended up in that 6 7 area.

In that area, you mean the firm's 0 bankruptcy practice?

I was not exclusively assigned to them. I did work for the tax department, for all other departments. But yes, I primarily did work in the bankruptcy area, as I recall.

At that time, how many different departments were in the firm?

I don't recall, but I would guess probably five, six.

0 Was there a litigation department?

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20 Maybe it would be helpful if you could run 21 us through how the firm is broken down by department. 22

to the extent you can, both at that time and moving

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1 forward.

2 At that time, we had so many different 3 conglomerations I really couldn't tell you. In general, it has kind of been along the same lines, we 4 had departments and then we kind of had practice 5 groups within departments and areas and I don't 6 7 know. We are a corporate firm. We have corporate 8 type litigation. We have an insurance regulatory 9 area. We have a tax area. We have a pure corporate 10 area. Then we have an environmental area. 11 Those areas have kind of existed since that

time in some form or another. So those would be the general practice areas or departments. Yes, since that time we developed an insurance defense area that wasn't here in '83 but is now.

Q Okay. So, when you joined in '83, there 16 17 were five general practice areas? 18

As I recall, yes.

You weren't specifically assigned to one area, but as time went by, you got more involved in the firm's bankruptcy practice, which I take it was part of the litigation?

A Correct. Our firm still does today -- with our law clerks, we try to let them circulate through different areas and not pigeonhole them with one group to see what they like. When I went to law school, I thought I wanted to be a tax lawyer. I concluded real quick that I didn't. You get a variety, a sampling of different areas.

Q Was there a particular attorney who you reported to as a law clerk?

A There probably was somebody in charge, but I don't recall who it would have been. Deborah Brown was the attorney in charge of recruiting. So, it may have been Ms. Brown. She is no longer here.

But we are much more organized now. Then we had lots of work and needed more bodies to be doing work. So we were just given projects and did them and turned them back in to the attorney who gave us the project.

Q During the time you were a law clerk, did you ever work with Jim Guy Tucker?

A Yes, sir.

1 2

Q Do you recall on what matters?

A No, sir.

Q Did you work with Beverly

Bassett-Schaffer?

A I'm sure that I did. It would have been much more limited, if at all. She was primarily involved in securities. I knew that was not an area I was going to be involved in.

Q You don't recall any specific matters or the nature of the work?

A She might have asked me at some point to find the statute of limitations for something. She could have. I don't recall she ever did. That is certainly a possibility that I worked with every lawyer that was here. As a law clerk trying to find a job, I wanted to work for as many people as I could find to hopefully convince them that they should employ me.

Q What about John Selig?

A I do not recall what the nature of any of those would have been, but I am sure I did.

Q Breck Speed?

A Breck and I were running buddies. We would

21 have been on a par together. He would not have given 1 2 me any assignments. By "on a par," you mean he was a law clerk 3 4 when you were? 5 I'm sorry, he was not here when I was a law 6 clerk. 7 0 We are focusing on your employment as a law 8 clerk. 9 I think Breck came about the same time I 10 did when I was an associate. I don't think he would 11 have been here when I was a law clerk. 12 Do you recall as a law clerk doing any work 13 for Madison Guaranty? 14 No, not as a law clerk. 15 0 Is that no, you did not, or no, you do not 16 recall? No, I do not recall. I don't believe that 17 I did, but I don't recall it if I did. 18 19 Do you have any records that might refresh 20 your recollection regarding that? 21 I do not, no, sir. A 22 O You joined the firm in 1985; right? 22 1 Yes, sir. I believe it would have been in 2 August, after I got the bar results back. 3 At that time, were you assigned to a particular department? 4 5 Yes, sir. It would have been the 6 bankruptcy general litigation area. 7 Q Let's back up just a bit here and focus in 8 on 1985. You were a law clerk. Did you continue working as you studied for the bar? Could you run us 9 10 chronologically, your employment at Mitchell, Williams during the year 1985. 11 12 A I went to school and finished up my last 13 semester. I continued to work. My recollection is probably kind, but I remember putting in lots of 14 hours while still going to school. I received an 15 offer I guess the summer before. So I knew where I 16 was going to be working. The firm did give us two 17 18 weeks off if we wanted it, but I needed -- it was 19 without pay, and I needed the money worse than I needed to study. So I continued to work. I think I 20

did take a week or so off. I then took the bar and

came back and worked again as a clerk until I got the

bar results, and then I switched from being a lawclerk to an associate.

Q At that point in time you joined the bankruptcy group in the litigation department?

A As best I recall, yes, I would have probably then been officially assigned to them.

Q During your time of employment with Mitchell, Williams, from 1983 to the present, has the firm had procedures to identify and determine conflicts of interest?

A Yes, sir.

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Q Could you explain those procedures and how they may have evolved or changed over time?

A I don't know that I can accurately do that. I can, I guess, give you my perception of it. The firm has always tried and has always been conflict sensitive even, in my observation, sometime to a point we turn down more work than we take sometimes. But we have tried to maintain every client we have in a central system that used to be just books and paper, and it has evolved to a computerized system now.

We even do -- I don't know when we instituted a thing called a golden rod. We check all possible conflict names and then we circulate a yellow piece of paper or a gold piece of paper around the office to just see if there are any, maybe not real legal conflicts but they might be a business conflict or somebody's relative, neighbor, friend, like that, to see if there is any reason why we shouldn't take on a particular piece of work.

Involving me, every time I represent a creditor in that bankruptcy, we input every creditor's name. I end up waiving a lot of conflicts. They are actually false hits, the people involved being a creditor in the same bankruptcy.

So, since I have only worked at one other place, I don't have a lot of comparison. But I know compared to that one other place, we have a very good conflict system.

Q You said it is called the golden rod system?

A Yes.

Q Do you recall when that was put in place?

A That one piece of paper is called the 1 2 golden rod. Our conflict system is not called the 3 golden rod system.

That system has been in place since you joined the firm?

That golden rod -- are you talking about the conflict system or the golden rod system?

Maybe I lost you as to how your conflict 8 9 system works.

A Now -- I may have confused you. Now every -- Acme Corporation comes to me and can I represent them as a secured creditor in the Chapter

11 of ABC company. I have to give the name of Acme 13

Corporation and their directors and principals to our 14

15 conflict department, I guess. There is a lady back

there who maintains the computer. She punches that 16

up to see if my neighbor next door may have 17

incorporated Acme Corporation or that if we are 18

19 following a particular debtor, that someone hadn't

20 worked with that debtor.

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21 If that comes back clean that there are no 22 conflicts, then I separately circulate a gold piece

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of paper. We call it a golden rod. I ask all my 1 other members, associates, paralegals and maybe even 3 secretary that if anyone knows of any other reason that it didn't come out in the actual legal conflict 4 of why I shouldn't represent this company involving 5 6 this debtor. That second step is the golden rod.

Thank you for clarifying that. That is the same system that has been in place since you have

been a law clerk?

10 A No. I don't think the golden rod went back as far as '83. When between '83 and '96 we started 11 12 that I'm not sure. I know it has been around five 13 years or so, I believe. But I just don't know. We have always had the system where you had to run a 14 potential new client through whatever system was in 15 place. Before we were computerized, it was a manual 16 17 book system.

When did you go computerized? 0

I want to say it was -- I just don't know. Α

Can you approximate? 20 0 21

When everybody else did. '87. I don't

22 know. I can remember we had the old mag card typewriters and then we went into some kind of antiquated computers. It has just kind of evolved. It has been in the '80s, but I don't know when.

1 2

Q The system became computerized, but the methodology of searching for conflicts did not change?

A Right, except I guess we are more sensitive. That has just kind of been an issue the last 10 years with lawyers and I think nationwide lawyers have tried to become sensitive to finding any potential conflict.

Q Is it fair to say the firm placed a greater emphasis on searching out conflicts in its recent past?

A I think that has always been an emphasis of this firm. There is no defining point that it is greater now than it ever has been. The computer enables us to look at more things than we might -- could have before. This firm has always been extremely conflict conscious.

Q Do you recall when Madison Guaranty first became a client of your firm?

A No, sir. I have a vague recollection of when I first started doing work for them, but I don't know when they first became a client of the firm.

Q Do you recall when you first started doing work for them?

A In late '86, early '87.

Q Prior to that, you had done no work on Madison Guaranty matters, either as a law clerk or as an associate?

A I have no recollection of doing any work for them. I don't know.

Q Whose client was Madison Guaranty? Which lawyer in the firm was the billing client for Madison Guaranty?

A I don't know that either.

Q Who did you -- can you recall all the Madison Guaranty matters that you worked on?

A No, sir, I certainly cannot.

Q If I listed some matters -- strike that.

Do you recall the nature of the work you did?

A Yes, sir. It was all pretty much the

1 same.

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What was that work? 0

I was a young lawyer, and I was a

collection lawyer. That's about the best way to 4 5 describe it. They would have defaulted notes and

6 mortgages. I would go repo cars. I would foreclose

7 houses. I would repo tractors. I probably got into

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some sophisticated stuff when they had say a trustee

9 on a bank account there and maybe somebody had

10 wrongfully taken the money out and ripped off their 11 mother or something. I would be over in probate

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court fighting over the proceeds of some account.

13 Other than dealing with an account, something dealing

14 with an account, it was a pure collection practice of

15 mortgages on real estate and security interest in

16 personal property.

So, foreclosing on bad debt and unpaid

18 loans?

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19 Correct. That was the nature, that was the 20 limit of my involvement.

> Who did you report to on these matters? 0

I reported back to the client. Pat Α

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1 Heritage was my primary contact there at the 2 institution.

3 So, there was not partner who supervised 0 4 vou?

5 There was another associate, a guy named

Tim Grooms that I worked with pretty closely. My 6 7 recollection is we did status reports. They might

8 have been provided to someone else in the firm.

9 possibly to Mr. Selig; I don't know. No, there was

no direct partner that I answered to on a daily 10 11

basis.

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0 Who did you address the status reports to?

I'm sure they would have gone to

Ms. Heritage, as I recall. She was my primary 14

contact. We may have sent them to a higher up there, 15 16 but I don't recall.

17 You said you worked on your first

18 Madison-related matter in late '86. Do you recall

19 what month of 1986 this was?

20 No. Just looking at this memo, Peacock --21 this stuff all happened in April of '87. I can just

22 recall that I had some matters going on prior to

31 that. That's why I said late '86 or early '87. I 1 don't know the date. But I was trying to get you in 2 the ballpark, and that's where I suspect it would 3 be. I don't recall what the nature of the first 4 5 Madison file was. 6 My recollection was that there were several 7 files sent over here and they were divided up among several lawyers here and we all went to work suing 8 9 people on them. 10 O You just referred to a memo. Is that the 11 September 25, 1987 memo of your law firm to the Federal Home Loan Bank of Dallas? 12 13 A '87. 14 O '87 MR. PORTNOY: Is there a Bates number? 15 MR. NAPPI: There isn't a Bates number, 16 17 unfortunately. This is a committee highly confidential document. It was part of an RTC memo 18 regarding their analysis of the Mitchell, Williams 19 law firm's work for Madison Guaranty. I will put it 20 21 in the record as Exhibit 1. THE WITNESS: Ms. Bartley's letter is 22 32 1 Exhibit 1. 2 MR. NAPPI: Let's go off the record for a 3 moment. 4 (Discussion off the record.) 5 MR. NAPPI: The September 25, 1987 6 Mitchell, Williams memo to the Federal Home Loan Bank 7 in Dallas is Exhibit 1 for this deposition. 8 (Miller Exhibit 1 identified.) 9 BY MR. NAPPI: 10 Could I direct your attention to it, 0 Mr. Miller? 11 12 Exhibit 1 is what? 13 A September 1987 memo or letter, if you will. It is on your law firm's letterhead. It is to 14 the examiner in charge at the Federal Home Loan Bank 15 16 of Dallas. 17 A All right, sir. I have seen this. 18 Have you had an opportunity to review it? 19 Well, I believe you told Ms. Bartley or 20 someone asked Ms. Bartley to have it available at the deposition. So, since that request, I have looked at 21

it. I have not seen it before then.

33 Did this memo refresh your recollection as 1 2 to any matters that you may have worked on for 3 Madison Guaranty? 4 Prior to my leaving the firm in July of 5 '87, yes, I recall the Peacocks. 6 Which particular matters? 7 I believe on page -- I'm not sure exactly all of them that I represented. It may be more, but 8 9 I specifically recall the Peacock Brothers, Inc., dba 10 the Peacock Company on page 3. I know I had some 11 other Peacock-related files, but I don't know exactly 12 which ones they were now. 13 With respect to the matters covered in this 14 memo, you only recall specifically working on this Madison Guaranty v Peacock Brothers, this Chapter 11 15 16 proceeding? 17 Right. They were all interrelated with all the other Peacock matters. That's the only one I 18 19 specifically recall. 20 Q Do you have any records that you have 21 maintained that might refresh your recollection of other matters you worked on with respect to Madison 22 34 1 Guaranty? 2 A No, sir, I do not. I don't know what the 3 firm has, but I do not. 4 You said a woman named Pat Heritage was 5 your primary contact at Madison? 6 Correct. 7 Who else at Madison did you have contact 8 with regarding your legal work for the institution? 9 As I recall, Pat was pretty much it. 10 Anywhere else it needed to go in the institution, she 11 was responsible for that. I would talk to her and she would talk to the other people. So, as I recall, 12 13 Pat was pretty much it. 14 You said "pretty much." You qualify it. 15 Is there anyone else you recall? I recall a gentleman by the name of Cuffman 16 17 being there. 18 O Could you spell that name? 19 Α Either C or K-u-f-f-m-a-n. 20 Okay. He was another Madison person you

I recall him being there. I cannot recall

recall having contacts with?

1 ever having a conversation with him. I know he was 2 there and he was a lawyer, but he wasn't there as a 3 lawyer. Anyway, Pat would talk to him from time to time. Whether I had any direct contacts with him, I 4 5 do not know.

What was Pat Heritage's role at Madison?

Pat was what would now be described as a workout officer. After other people would make the loan, they would give them to her, pull the files and provide them to me and we would go down to south Arkansas and foreclose some little house. She would go down there and testify that this was the original note and it has a balance of this much and it is in default and we should be allowed to foreclose. She was the workout officer.

O Prior to beginning your legal representation of Madison, did you know Pat Heritage?

No. sir.

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0 You mentioned a gentleman named Tim Grooms.

Α Yes, sir.

Could you spell that name for the record. 22 0

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T-i-m and G-r-o-o-m-s.

And you reported to him regarding Madison 0 matters?

Α I talked to him about Madison matters. Tim was a year ahead of me here at the firm. He was also doing the same kind of stuff I was doing.

Same kind of stuff? You mean collection work?

Yes. We would discuss them. He probably had more client contact than I did, but I would discuss them with him.

Q I'm trying to understand how you came to work on Madison matters. Now, you say you only recall one specific matter which was the Peacock bankruptcy. Do you recall who assigned you to work on Madison matters at the firm?

No, sir. It would have been the nature of all my other work. Being the first year out, someone would have just said -- we had several bank clients at that time, bank or S&L clients that we did work for. It would have been like all those others:

someone would have said we have these files. Lance.

go get them, and I would go get them. I would start 1 2 suing and start repossessing.

But Madison in particular, do you recall 3 4 the member of the firm who assigned you to work on 5 the Peacock bankruptcy file? 6

No, sir. I do not recall who assigned me to work on those.

And you were reporting directly to no one at the firm regarding that matter?

Not that I recall. I mean, no, I was not reporting, saying today here I filed this lawsuit,

no, I was not doing that. Someone may have been 12

13 copied on the status reports or something. But that

has been a long time ago and I don't recall who that 14 15 was.

Do you know if the firm maintains these 16 17 status reports still from this time period, 1986? 18

No, I don't know if they do or not.

19 0 Did you have a mentor or a partner who 20 provided guidance to you at the firm?

Mr. Grooms was not a partner, but I guess 21 22 he would be close to a mentor. At that time, we had

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1 a preceptor program. It wasn't so much to control work as it was to maybe advise me of firm matters and things along those lines. That was Mr. Tucker.

> Mr. Tucker? You mean Jim Guy Tucker? 0

5 A Yes.

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6 O You said it was a preceptor program?

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Could you explain what this program was. 0

I'm not sure I followed you.

10 Well, Jim Guy was, I guess, kind of supposed to be responsible for keeping me square with 11 12 the partners and keeping me, quote, on track for a partnership, that I was doing things correctly and 13 evolving from a new lawyer into some day eventually 14 15 to be a partner. He was supposed to kind of guide me 16 along that track.

17 So, I mean, we had, as I recall, associate 18 evaluations kind of once a year, and the partners 19 would all talk about associates. Jim Guy would call me in once a year and basically say you are doing 20 21 good, keep doing what you are doing, don't screw up,

22 and that would kind of be our preceptor meeting.

- 1 Q Did you meet with him regularly, "him" 2 being Mr. Tucker? 3 A Yes. Our offices weren't far away. I 4 talked to him about other matters. We had lunch. We 5 got together a few times, ves. I met with him. Did vou know Mr. Tucker before you joined 6 7 the firm as a clerk? 8 A No. sir. 9 You met him through your work at Mitchell, 10 Williams? 11 Α Yes, sir. 12 And you had a social relationship with him 0 and he was your mentor in this preceptor program? 13 Yes, and I don't know if you could call 14 it -- we had a social relationship. We know each 15 16 other, ves. But I don't go out socially with him, 17 no. 18 If we could focus on the firm's 19 representation of Madison in these lawsuits against 20 Charles Peacock and the Peacock controlled 21 businesses, was there an attorney at your law firm who was responsible for coordination of these 22 40 lawsuits against Charles Peacock, his family and 1 2 related businesses? 3 A Not that I recall. Each attorney was kind 4 of doing their particular files and reported back to 5 the client on those matters. 6 O Was Pat Heritage the contact person for all 7 of these matters? 8 She was my contact. I don't know about all 9 the others. 10 Were there any meetings at the firm 11 regarding the series of lawsuits involving 12 Mr. Peacock, his family and his businesses? 13 I don't know if they would be formal 14 meetings, but yes, I can recall Mr. Grooms and I 15 meeting kind of about where we were going. Marcie 16 Taylor had some of these. I recall sitting down with 17 Marcie and Tim and, yes, we were all kind of plotting where we were on our particular lawsuits. 18 19 Do you recall meeting with anyone else?
 - Q Could you spell that last name for the

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involved.

Another lawyer, Lynn Pruitt, may have been

1280 41 1 record. 2 Α P-r-u-i-t-t. 3 0 And Marcie Taylor, that would be 4 T-a-v-l-o-r? 5 Α Yes, sir. 6 Other than Mr. Grooms, Ms. Taylor and 7 Ms. Pruitt, do you recall speaking with any other 8 Mitchell, Williams lawyers regarding the Peacock litigation, the number of lawsuits filed against 9 10 Mr. Peacock and his businesses? 11 No, not that I recall, other than when the 12 allegations occurred that are reflected in my April '87 memo, I recall meeting with Mr. Tucker about 13 14 those. 15 MR. PORTNOY: I'm not sure that the witness 16 testified that he actually discussed the Peacock 17 matter with Mr. Grooms or Ms. Taylor or Ms. Pruitt 18 but rather Madison matters generally. 19 Did I understand that testimony correctly? 20 THE WITNESS: I'm talking about Peacock. 21 MR. PORTNOY: Okay. My misunderstanding. 22 Thank you. 42 1 BY MR. NAPPI: 2 Q And Grooms, Taylor and Pruitt also reported 3 directly to their contact at Madison? 4 I assume that they did. I don't know. 5 And there was no lead partner at Mitchell, Williams or no partner with overall responsibility 6 7 for Madison matters? 8 I don't know. Not as I recall sitting here can I tell you that it was partner A. I simply do 9 10 not know, do not recall. 11 Generally speaking, did the litigation 12 department hold departmental meetings to discuss 13 ongoing matters? 14 Α We held meetings --15 Again, I'm focusing on the time frame 1985 16 through 1987, your first stint with the firm. 17 We held meetings. I do not believe they were to discuss individual clients like an opening 18 19 scene of LA Law or something. If I recall, one of

our senior partners, Allen Gates, was in charge of the litigation department, being it was more of an

educational CLE type thing where we might discuss the

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1	rules of procedure, the rules of evidence or things	
2	of that nature. I do not recall us specifically	
3	sitting down and discussing our files.	
4	Q Was Jim Guy Tucker a member of the	
5	litigation department?	
6	A Excuse me?	
7	Q Was Jim Guy Tucker a member of the	
8	litigation department?	
9	A Yes.	
0	Q Was Beverly Bassett-Schaffer?	
1	A No.	
2	Q What department was she in?	
3	A I assume corporate, business department,	
4	whatever it might have been called then.	
5	Q The department that did transactional work	
6	at the firm?	
7	A I guess they were in the same department.	
8	I don't know I don't recall Beverly being a	
9	transactional lawyer. She was on that side of the	
0.	hall with those people, yes.	
21	Q Was she a regulatory lawyer?	
22	A Sir, I just don't know.	
		4.4
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1	Q What about John Selig?	44
2	A He was on that same side of the hall. He	44
2	A He was on that same side of the hall. He was a transactional lawyer, as best I recall.	44
2 3 4	A He was on that same side of the hall. He was a transactional lawyer, as best I recall. Q And Breck Speed?	44
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2 3 4 5 6 7 8 9 0 1 2 3 4 15 16 17 18 18 18 18 18 18 18 18 18 18 18 18 18	A He was on that same side of the hall. He was a transactional lawyer, as best I recall. Q And Breck Speed? A Breck was an associate in John Selig's department, wherever he would have been. MR. NAPPI: Let's go off the record for a minute. (Recess.) BY MR. NAPPI: Q Mr. Miller, I would like to backtrack for a minute, if I may. During the time you were attending University of Arkansas law school, were either Bill or Hillary Clinton teaching at that law school? A I attended the University of Arkansas at Little Rock, which is different than the University of Arkansas law school. That's at Fayetteville. And no, they were not at Little Rock.	44
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45 1 MR. PORTNOY: I'm going to state for the record that we have been avoiding inquiring into the 2 3 political affiliations of witnesses. 4 MR. NAPPI: I will defer to Mr. Portnoy on 5 this. I will not ask about affiliation. 6 BY MR. NAPPI: 7 O Why don't we get into the type of activities. By political activities, I mean have you 8 9 ever made campaign contributions? 10 A Yes. 11 Do you recall the specifics? 0 12 No, but I mean, I guess I give to a variety 13 of causes that I feel like I support. Do you recall individual candidates to whom 14 15 you have made campaign contributions? 16 Not specifically, no. If you want to give 17 me a name. I can tell you whether I did or not. 18 Did you ever make a campaign contribution 19 to Governor Clinton? 20 Α No 21 Did you make a campaign contribution to 22 Governor Clinton's presidential election campaign? 46 1 Α No Did you make any contributions to Governor 2 0 3 Tucker's? 4 Yes. A 5 0 Do you recall which campaign? 6 A 7 Did you ever work as either a volunteer or 0 8 a paid employee of a political campaign? 9 Α Yes. 10 0 Could you describe the circumstances.

When I was in high school, I helped get our

Did you ever do it for Jim Guy Tucker? Did

Can you describe the nature of that work?

local representative up there, a guy by the name of

signs. I have done that for other candidates.

Bobby Hogue elected. I went around and put up yard

you ever do any campaign-related work for Jim Guy

A I guess it was the '90 gubernatorial

election. I had just left Jonesboro and made a lot of contacts up there. Jim Guy was going to run

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Tucker?

A Yes, I did.

against Sheffield or Sheffield wasn't going to run or 1 2 whatever happened. Jim Guy declared for governorship that year. We traveled to northeast Arkansas on 3 several occasions meeting with people, contacts I had 4 and contacts he had up there in Jonesboro, Paragould 5 6 and West Memphis. 7 What kind of meetings? Fundraisers? 8 I don't recall any fundraisers. A meeting 9

I do recall with Jim Guy, he met with some teachers up there. He met with some other -- they were my clients when I was practicing law there. I basically introduced them and Jim Guy met with them.

We went to a wildlife banquet which was with some other gubernatorial candidates. I remember Sheffield Nelson was there and Tommy Robinson was there. We spoke to a state police association over in West Memphis. Those are the ones I recall.

So, it was grassroots meetings and debates?

Α Correct.

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Do you recall any other specific work you did for candidate Tucker?

I put up yard signs, talked to folks I

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knew, that kind of stuff. 1 2

If I could refer you back to Exhibit 1. O

3 Α Yes, sir. 4

I would like to run through the matters referred to in this exhibit and just try to get a sense of whether you were ever involved in any meetings or contacts with other lawyers at Mitchell, Williams regarding any of these matters. The first

matter is Madison Guaranty v Peacock Financial Corp. 9

and Charles Peacock, III. 10 11

A Right.

You stated you don't recall working on this matter; is that true?

My present recollection, I do not know whether I worked on this matter or not. Those names sound familiar. I do not know if I was the lawyer responsible for this file or not.

Do you have any records that would refresh your recollection as to this?

I personally do not have any records, no. I don't know whether the firm has them or not.

Do you recall discussing this matter with

1 anyone at the firm?

A I do not. As I sit here today, I do not recall discussing it. If it was one of the files that I was responsible for, yes, I would have discussed it with Mr. Grooms, Ms. Taylor, just kind of generally where we were on these matters, but I just simply do not recall.

Q Okay. With respect to the second matter, Madison Guaranty v Ken Peacock, et al., do you recall any specific work on this matter?

A I remember the names all sound familiar. I remember there being a Ken Peacock and a Charles Peacock, III. There was one kid in law school. There was some debate as to whether he was on some notes. Again, the name sounds familiar, but I can't remember whether that was a file I was responsible for or not.

Q Any specific recollections of discussions or meetings with any of the other lawyers or members of your firm?

A Same as the other. If this was a file I was responsible for, there would have been where are

we on this, kind of where are we going, I'm having trouble getting this guy served in Fort Smith, do you have any idea how I can do that, blah, blah, blah, those type discussions.

Q Those discussions would have been with either Mr. Grooms or Ms. Taylor or Ms. Pruitt, no one else at the firm?

A I wouldn't exclude anyone else. Those are the ones I can recall. That was kind of the little core Madison group. There may have been others.

Q When you say "core Madison group," as to all Madison matters or collection matters?

A Collection matters.

Q The next matter is the Chapter 11 proceeding that you say you do have a specific recollection regarding.

A The only reason I have a recollection is my other memo, so I recall it from that. Without that memo, I don't know that I would even recall that.

Q Okay. For present purposes, the only other matter in this memo that I want to direct your attention to is on page 7. It is a matter styled

Madison Guaranty Savings & Loan Association v Dixie 1 2 Continental Leasing, Inc. 3 That was not mine. Α 4 You are certain of that? 0 5 Α Yes. 6 0 Do you know whose case it was? 7 I believe it was Marcie Taylor's. A Why do you believe it was Marcie Taylor's? 8 0 9 I don't know. I just believe that it was. My recollection is that that was one that Marcie was 10 11 responsible for. 12 Have you maintained any records or notes that might refresh your recollection or help you 13 14 focus? 15 A No. I have not. How would you have come to know it was a 16 17 matter that Marcie Taylor was responsible for? 18 The way I recall it is that when all this stuff started last summer with the reporter and he 19 handed me back this April '87 memo, I could not have 20 21 told you who or what Dixie Continental Leasing was. Q By April '87 memo, you are referring to an 22 52 1 April 23, 1987 memo? 2 Yes, and on page 3, the second full 3 paragraph, it says "Hopkins informed Ms. Heritage of Dixie Continental of which Ms. Marcie Taylor has 4 5 undertaken foreclosure." 6 Q So, prior to that, you had no recollection 7 of Ms. Taylor working on this matter in particular; Dixie Continental, that is? 8 9 That's correct. That's my basis. Okay. These meetings you referred to with 10 Grooms, Taylor and Pruitt, were they held on a 11 12 regular basis? 13 No. Again, you say they are meetings. If you consider two people talking about a lawsuit a 14 meeting, then it was a meeting. I might have been 15 16 asking someone I have this 1985 Buick I have to repossess and the sheriff is not wanting to do it or 17 I am having trouble getting this guy served, what can 18 we do, or I have this foreclosure set Tuesday in 19 20 south Arkansas and another hearing in north Arkansas. 21 can you cover one of them, those type of things,

asking, discussing with other lawyers. So two people

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1	talking, so if that is the meeting, that is the type	
2	of things we had.	
3	Q All four of you were junior associates?	
4	A Yes, if you consider two or three years out	
5	junior, and I would.	
6	Q Was Mr. Grooms the senior associate?	
7	A I don't know how to answer that.	
8	Q Had he been at the firm the longest?	
9	A No, he had not. He had not. Marcie Taylor	
10	was probably the senior being out of law school. I	
11	think she and Tim and Lynn all joined the firm about	
12	the same time. They were both a year ahead of me at	
13	UAR. We were all kind of right there together. He	
14	was not my boss or anything like that. He is a smart	
15	guy and we all kind of talked to him about things,	
16	but he was not in charge that I recall.	
17	Q Was Mr. Grooms reporting to any senior	
18	attorney at the firm?	
19	A I do not know.	
20	Q Was Ms. Taylor reporting to any senior	
21	attorney at the firm?	
22	A I do not know.	
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1	Q Was Ms. Pruitt reporting to any senior	54
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1	Q Was Ms. Pruitt reporting to any senior	54
1 2 3 4	Q Was Ms. Pruitt reporting to any senior attorney at the firm?	54
1 2 3	Q Was Ms. Pruitt reporting to any senior attorney at the firm? A Do not know.	54
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1 2 3 4 5 6	Q Was Ms. Pruitt reporting to any senior attorney at the firm? A Do not know. Q Do you know who Mr. Grooms reported to at Madison? A No.	54
1 2 3 4 5 6 7	Q Was Ms. Pruitt reporting to any senior attorney at the firm? A Do not know. Q Do you know who Mr. Grooms reported to at Madison? A No. Q Do you know who Ms. Taylor reported to at	54
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55 1 No. sir. If he had one, I wasn't aware of 2 it. 3 At this time, do you know if the firm was aware of potential conflicts that Governor Tucker had 4 5 with respect to Madison? I mean -- can you rephrase your question. 6 7 I don't know if I'm following you. Again, I'm focusing on this time period, 8 the beginning of 1987. Were you aware of any 9 potential conflicts that Jim Guy Tucker had with 10 respect to Madison Guaranty matters? 11 12 Was I personally aware of any? No. Q Have you since become aware of such 13 14 potential conflicts? 15 Other than may be referred to in this April '87 memo, that's the only thing I'm aware of. 16 17 At this point I would like to direct your 18 attention to a handwritten memorandum. It is dated 4/21/87. Again, it is not Bates stamped, but it is a 19 highly confidential committee document that comes to 20 21 us by way of the RTC. It is Exhibit 10 to an RTC memo regarding the Mitchell, Williams law firm. 22 56 1 All right. Α Do you have a copy of this handwritten 2 3 memo, Mr. Miller? A Is it on a form that has "conference 4 5 memorandum" at the top? 6 0 Yes. 7 A That is what we call the green sheet. 8 Why do you call them green sheets? 9 The original is green. We have them produced in pads. They lay by the phone and you make 10 phone notes on them. If it is a conference, you see 11 that it says it is a conference, whether by phone or 12 13 in your office. Can you tell us, this green sheet, are 14 these your handwritten notes? 15 16 Yes, sir. It is my conversation with Pat Heritage on April 21st at around 2:05. 17 18 The time is 2:05? 19 Yes, sir. And the attorney is LM. That's 20 my initials. 21 This reflects a telephone call with Pat

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Heritage?

57 1 Α Yes. 2 What can you recall regarding this 3 conversation? Did Ms. Heritage call you or did you 4 call Ms. Heritage? 5 Α I don't know. I think Pat called me. 6 And you were in your office at the 0 7 Mitchell, Williams firm? 8 Α Yes, sir. 9 0 The telephone number, 374-7777, was that 10 Pat Heritage's number? 11 A Correct. 12 0 Would it be your practice to write down the 13 caller's number? Yes, it could very well be. 14 Α 15 0 So even if you received a call, you might 16 write down their telephone number? 17 Α Right. 18 0 So, you still don't recall whether you were 19 returning her call or whether she was calling you? 20 No, I don't. My recollection is she called 21 me, because she had had a conversation with Hopkins. 22 Who is Hopkins? 0 58 1 Greg Hopkins, the attorney here in town 2 that represented the Peacocks, making the allegations 3 set forth in this green sheet. 4 Was this a one-on-one telephone call or was 5 it a conference call? 6 Α It was one on one with Ms. Heritage. 7 I would like to run you through the 8 notations on this memo line by line, if we could. 9 Α All right. 10 0 Now, Pat Heritage called you, and did she 11 say why she was calling you? 12 She just had a conversation with Greg 13 Hopkins and he was making all these allegations. 14 Greg Hopkins was representing Charles 15 Peacock? 16 Α Right. 17 Did you find it unusual that he contacted

your knowledge? 22 To my knowledge, yes.

I find it pretty unethical, but he did it.

Was this the first time he did that, to

your client rather than you?

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59 Did you know Mr. Hopkins at that time? 1 0 2 Yes. A How did you know Mr. Hopkins? 3 0 I just had his Chapter 11 bankruptcy 4 Α dismissed with prejudice. We had been doing battle 5 in bankruptcy court on lots of other matters. Greg 6 is basically a debtor's lawyer and I am basically a 7 creditor's lawyer. We had gone to court on several 8 matters. On April 8 we had the Peacocks' matter 9 dismissed with prejudice. He wasn't real happy with 10 11 12 0 What other matters would you have worked with him, Mr. Hopkins? 13 I don't know. There would be a variety. A 14 lot of people were going broke back then and we were 15 chasing a bunch of them. 16 Were they Madison-related matters? 17 No. Peacock is the only Madison-related 18 matter I recall. 19 O The first line of handwritten notes, "move 20 underway to disqualify based on JGT." Do you recall 21 22 what that refers to? 60 Yes. He said that somebody was going to 1 seek to have us disqualified as counsel for Madison, 2 the somebody being him and the Peacocks, because Jim 3 Guy was a member of the firm, and because he was a 4 member of the firm, any of his business deals would 5 be disqualified, so the firm was disqualified. I 6 found no merit or logic to that argument, but that's 7 8 what he was saying. 9 So, he was alleging that there was a 10 conflict situation here? That's what he was telling Pat, yes. 11 Did Pat Heritage seem concerned that there 12 13 was a possible conflict? No, she did not. 14 A Why was she relating this information to 15 Q you? 16 17 Because Greg had just told it to her, and 18 it was hey, here is what he said, and I wrote it 19 down. 20 Did she tell you how much prior to your telephone call she had spoken with Mr. Hopkins?

MS. BARTLEY: There was a beep. Could you

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		61
1	repeat that.	01
2	BY MR. NAPPI:	
3	Q Did Ms. Heritage tell you when she had	
4	spoken to Mr. Hopkins regarding these matters?	
5	A It was like that day or the day before. My	
6	recollection is she just hung up with him and called	
7	me.	
8	Q Did she say how Hopkins knew about these	
9	potential conflicts or these claimed conflicts?	
10	A No. I think Mr. Peacock might have been on	
11	the board at one time.	
12	Q The board of Madison Guaranty?	
13	A Yes.	
14	Q Did Pat tell you that or how do you know	
15	this?	
16	A I think it was in some newspaper articles	
17	or maybe even Greg Hopkins told me that. I think I	
18	heard that from Greg.	
19	Q Had you discussed this issue with	
20	Mr. Hopkins before Ms. Heritage called you and raised	
21	this issue?	
22	A No. It would have been him on the board.	
		62
1	It came up in the context of us pursuing him. It was	62
1 2	It came up in the context of us pursuing him. It was like gee, how did he borrow this much money, he is on	62
1 2 3	It came up in the context of us pursuing him. It was like gee, how did he borrow this much money, he is on the board. Greg was trying to work an angle to try	62
1 2 3 4	It came up in the context of us pursuing him. It was like gee, how did he borrow this much money, he is on the board. Greg was trying to work an angle to try to get us to back off, is what he was trying to do.	62
1 2 3 4 5	It came up in the context of us pursuing him. It was like gee, how did he borrow this much money, he is on the board. Greg was trying to work an angle to try to get us to back off, is what he was trying to do. Q What makes you say that?	62
1 2 3 4 5 6	It came up in the context of us pursuing him. It was like gee, how did he borrow this much money, he is on the board. Greg was trying to work an angle to try to get us to back off, is what he was trying to do. Q What makes you say that? A That's what he did. I don't know what	62
1 2 3 4 5 6 7	It came up in the context of us pursuing him. It was like gee, how did he borrow this much money, he is on the board. Greg was trying to work an angle to try to get us to back off, is what he was trying to do. Q What makes you say that? A That's what he did. I don't know what makes me say that. That's what he did. Greg, as	62
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That happened I think on like the 8th,

1	April	8th	or	something.	
	April	oui	OI.	Sometime.	

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2 Okay. You represented Madison at this 3 hearing?

> It was our motion to have it dismissed. Α

And it was a successful motion; you got it O dismissed?

Right. The judge gave him the option of converting to a Chapter 11, converting their collateral or having it dismissed with prejudice. They elected to have it dismissed with prejudice.

You were the attorney responsible for this hearing?

Yes, sir. I went over there by myself, tried the matter and prevailed.

Do you recall whether this April 8 proceeding was heated or the subject of --

I mean, Greg Hopkins and I, it was an adversarial type proceeding. He was trying to maintain it and I was trying to get it dismissed. Greg had called previously trying to work some deals,

and the hearing date was actually a pressure point. 21

When you chase debtors, you have to get

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them in a corner to get anything out of them. 1 2

Setting the hearing, we had forced the issue. He had

been calling previously to try to get the hearing 3

4 continued and work some kind of settlement. I 5 wouldn't.

I said if we would settle it, we would call the hearing off. We never could come to any kind of terms, so we went forward with the hearing. It was contested. We don't hate each other because of it. but as lawyers we did battle that particular day.

There was nothing out of the ordinary other than a normal adversarial proceeding?

That's correct.

So, prior to the 8th, there had been settlement negotiations?

Yes. He had been trying to work angles every way he could, yes.

Did he always contact you directly, Mr. Hopkins? Did Mr. Hopkins always contact you with settlement offers?

No, not always. He had an associate, Karen Oueen, over there that I worked with a lot on these

1 matters.

- Q Could you spell her name.
- 3 A Q-u-e-e-n.
- Q But someone from Mr. Hopkins' firm always contacted you rather than another party at your firm or at Madison Guaranty?

A As I recall, about this particular Chapter 11, yes, they would contact me.

Q Was Mr. Hopkins' call to Ms. Heritage that led to your memo of the 21st, was that the first time that Mr. Hopkins had contacted your client directly on this matter?

A The first I was aware of. There may have been others, but it is the first I became aware of.

Q If I could focus you again on this April 21st memo.

A All right.

Q Again, moving back to the first sentence, "move underway to disqualify based on JGT." Did you ever follow up on these allegations, look into the potential for conflicts?

A As set forth in my little bit more of a

detailed involvement of it, as my memo of April 23rd,
I guess it was followed up on. We set out what they
asserted to be the conflict. What they asserted to
be the conflict was discussed.

Q What Mr. Hopkins asserted to be the
 conflict, which was regarding Mr. Tucker's
 involvement with Madison?

A Right.

Q And who did you discuss this with?

A As reflected back to this April 23rd memo, which states Tim Grooms and I went and talked to Jim Guy about it, said here is what he said, is there anything to it. Jim Guy said no, there is nothing to it.

Again, as stated in the April 23rd memo, Jim Guy indicates all of his dealings with Madison had been disclosed to the FSLIC and appropriately approved. But I suggested that if there was an issue, that I do the memo and present it to John Selig, which is what I did.

Q Prior to this call, it had never come to your attention that Jim Guy Tucker had business

- 67 1 dealings with Madison Guaranty or its subsidiaries or 2 individuals that were connected to Madison? That's my recollection, correct. This was 3 4 the first, as I recall, being any reference to that. The next line in this handwritten memo says 5 "Dixie loan went to Clinton campaign." Do you 6 7 recall what that refers to? 8 Yes. Hopkins told Pat Heritage and Pat 9 told me that that was an allegation that Peacock was saying -- I assume it was Peacock -- Greg was saying 10 that he had been informed of this Dixie loan, and it 11 12 later turned out to be Dixie Continental, there were 13 loan proceeds that went to the Clinton campaign. 14 In exchange for that, there was a lease to 15 the state. Hopkins's phrase was "a lot of people going to prison" as a result of that transaction. 16 That's what Greg told Pat and Pat told me. 17 Now, you have testified that you were not 18 19 responsible for the Dixie Continental Leasing 20 matter. 21 Α Correct. Did Ms. Heritage tell you why she was 22 0 68 1 contacting you if you were not the responsible 2 attorney? 3 Α The context, as I recall it, was here is 4 what this guy told me, and she was just relating it 5 to me. That was it. 6
 - Q Did it seem curious to you that she was calling you referring a matter that you were not responsible for?
 - A Was it curious to me? I'm sorry; I didn't understand your question.
 - Q Were you surprised that she was calling you regarding Dixie Continental Leasing, a matter that you were not responsible for?
 - A No. It didn't surprise me. I mean, it was in the office; all this was going on at the same time. Marcie Taylor was pursuing Dixie Continental.
- No, there wasn't anything unusual about it at all.
- Q Do you know if Ms. Heritage ever raised this issue with Marcie Taylor?
 - A No, I do not.

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- Q Prior to this, did Ms. Heritage ever
- 22 contact you regarding a Madison matter that you were

1 not responsible for? 2

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Α I don't recall.

0 Subsequent to this, do you recall her contacting you on a Madison matter you were not responsible for?

A I simply don't recall. The whole context of it was that we were both kind of shocked that -these were some pretty outlandish allegations that Hopkins was throwing around. She was pretty shocked

10 that he called her.

11 He was trying to pull any angle he could. 12 Both of us agreed these were lines. Debtors will do 13 it every day. He was posturing. I have never vet 14 met a debtor that said they were broke; it is always 15 somebody else's fault.

16 He was trying to come up with every angle 17 he could to try to get us from pursuing the Peacocks. We took it in the same vein; this is just 18

19 some more crap he is throwing out there trying to 20 persuade us to back off. He couldn't persuade me, so

he went directly to our client to try to persuade her 21

22 to do it.

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O Were you aware that Dixie Continental was a Peacock entity or a Peacock business?

I don't know. Sitting here today, but for these memos, I don't know that I could tell you that. But I'm sure at the time that I knew that it was at least a Madison-related matter. I didn't know that it was a Peacock-related matter.

Q Was Hopkins representing other Madison debtors?

10 Not that I'm aware of, but I'm sure -- I A 11 don't know. I don't know.

What did Ms. Heritage tell you? Did she seem familiar with the allegations contained in this handwritten memo?

That Greg was telling her about? Α

0 Yes.

No. A

Did she affirm any of the allegations that Hopkins made that are contained in this memo?

Α Them being true?

21 Q Yes.

No. As I just described, we both took it

71 as more debtor puffery or BS, whatever you want to 1 call it, trying to get us to back off. 2 3 It says the loan went to the Clinton 4 campaign. Did Ms. Heritage describe the mechanics of 5 how these proceeds allegedly went to the Clinton campaign? 6 7 A 8 Did she mention an April 1985 fundraiser? 0 9 No. sir. Α Did she mention any particular fundraiser? 10 O No, just that Greg told her the Dixie loan 11 12 went to the Clinton campaign. Okay. The next line has a reference to 13 14 leases to the state. Right. 15 Α What was Ms. Heritage relating to you? 16 0 That's all a continuation, that the Dixie 17 18 loan went to the campaign in exchange for a lease of 19 Madison property from the state, I guess. Did she mention a specific state agency? 20 0 21 Α No Did she mention a specific Madison 22 72 1 property? 2 Α No. 3 Did Ms. Heritage state that she had looked into whether there had been Madison leases to the 4 5 state of Arkansas? 6 I recall she hadn't looked at anything. 7 She had just hung up with Greg and called me and said 8 here are the allegations that this guy is throwing 9 out there. I don't think she had looked at anything. I think as soon as she hung up with him, 10 she picked up the phone and called me. 11 Do you know if she called anyone else at 12 13 your firm regarding these allegations? 14 Α No. sir. I do not. 15 Q The next line says "a lot of people going to prison." 16 17 Α Correct. 18 What does that refer to? 0 The same deal up above, that as a result of 19 20 that kind of deal, that they were kind of going to "blow the lid" on all this, and when it all came 21

out, a lot of people were going to go to prison

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	necalice	of that

2 Who did Ms. Heritage say was going to go to 3 prison?

4 A A lot of people.

> 0 Did she mention any people in particular?

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7 0 There is this reference to JGT. Did she 8 mention Jim Guy Tucker as someone who is potentially 9 going to go to prison?

No. That's two different points. "Move to disqualify," that is one allegation. Then they move on to Dixie loan, allegation number 2.

The first allegation is this alleged 13 14 conflict. The second is this allegation regarding 15 possible criminal conduct which is the loan proceeds 16 being misused for campaign contributions in exchange

17 for a lease, or at least that was the allegation

18 being made.

19 Α Correct.

> The next line says "Greg is going to get 0

out." 21

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Α Correct.

What does that refer to?

He was telling her that this thing was going to get so nasty that he had questions whether he would even want to continue being involved in representing people in this, that this deal was so dirty or had the potential to get so dirty that he

6 7 might consider getting out and not represent the

8 Peacocks anymore. 9

Okay. That's what the next line --0

10 Α That was the reason he was getting out, it 11 was too dirty.

12 The next line says "whole deal was just to 13 get billing out."

14 That's the fourth issue, I guess. Greg was

15 asserting, giving Ms. Heritage his opinion on my 16 representation, I guess the firm's representation

17 that we truly didn't have the best interests of the

18 S&L at heart and all we were doing was churning the

19 work and trying to get billing out; that if we wanted

20 to resolve this, we would try to settle with his

21 client and not keep pushing them like continuing to

22 foreclose them in state court, and she should

1 consider were we actually representing them as we 2 should.

Q Did Ms. Heritage seem concerned about this allegation?

A Not at all.

Q Did she ever discuss concerns about churning with anyone else at Mitchell, Williams?

A Not that I'm aware of.

Q Beneath that, the next line that begins "I should have."

A Yes, sir.

Q "I should have not said what I did in bankruptcy court." What does that refer to?

A I wish I could recall. I don't know. Greg said that I shouldn't have said something that I said in bankruptcy court, and I cannot for the life of me think of what it was. There are two possibilities, but I just don't know what it was.

Q What are those two possibilities?

A One was that he kept asserting we had a deal, and he wanted to report the matter to the judge as a settled matter and I wouldn't allow it to be

1 reported to the judge as a settled matter. My
2 recollection is I told the judge we do not have it
3 settled, we are here for a hearing today, let's go
4 forward with this, Mr. Hopkins well knows that if we
5 have it settled, it would be reduced to writing or at
6 least we would have an agreement in principle. We do
7 not have this matter settled.

The only other thing I can recall, there was an allegation that one of the latter Peacock loans was like a -- I don't know. There was a loan made to some Peacock entity right on the eve of bankruptcy and that there was an allegation at one time that they used this \$50,000 loan to pay Greg Hopkins's attorney's fees. That was the other possibility, that I could have told the judge that.

Q Could we just back up here. I'm sorry to interrupt.

A Sure.

Q There was a \$50,000 loan to who?

A One of the Peacock entities.

Q And did you have evidence that the loan proceeds of that loan to a Peacock entity had gone to

		7
1	Greg Hopkins for his attorney's fees?	
2	A I don't know that there was any evidence of	
3	that. Someone that was in an allegation or issue	
4	that was going on then. I think the institution	
5	believed that the \$50,000 had gone to pay Greg's	
6	attorney's fees for him to put them in bankruptcy.	
7	Q What institution?	
8	A Madison.	
9	Q What was the stated use of this loan, do	
0	you recall, the \$50,000 loan in question? Was it a	
11	loan for attorney's fees?	
2	A No. I don't think I think they borrowed	
13	the money and then used it for that, as I recall. I	
14	don't know what the original stated purpose of the	
15	loan was for.	
16	Q These were allegations; there was no	
17	specific evidence of the use of loan proceeds to pay	
8	Greg Hopkins?	
19	A Right. But there was some evidence, as I	
20	recall, that was like a day or so before they went	
21	in. It was	
22	Q What do you mean "when they went in"? When	ı
		7
1	who went into what?	
2	A When Peacock Brothers, Inc., dba the	
3	Peacock Company, filed their Chapter 11.	
4	Q This loan happened right before that?	
5	A That's my recollection.	
6	Q And there might have been a discussion of	
7	this at the April 8th proceeding?	
8	A Yes.	
9	Q But you don't recall specifically?	
0	A No.	
11	Q The last line in here begins "McDougal told	
12	Peacock that JGT and McDougal would take care of	
13	Peacock."	
14	A That's like allegation number 6. It was	
15	that another Peacock line was that McDougal had	
16	promised Peacock that Tucker and McDougal would take	
17	care of Peacock and that Madison was basically	
18	breaching that promise because we were now demanding	
19	that they repay their notes.	
20	Q What was meant by "take care of Peacock"? A I don't know. I have no idea. It is what	
21	A I don't know. I have no idea. It is what	

Pat Heritage said and Hopkins said.

Had Pat Heritage ever worked with Jim 1 2 McDougal? 3 Α I don't know. Did she say whether she had any knowledge 4 0 5 regarding any of these allegations? 6 The whole general impression of the conversation was that yes, there was no merit to 7 8 them. Again, it was all just this puffery. It was just a litany of excuses why his client should not 9 have to pay back these loans. 10 Was this the first time you had heard any 11 of these allegations that are contained in this 4/21 12 13 memo? 14 That's correct. Α 15 Subsequent to this call, are there any 0 16 issues that you recall that Ms. Heritage discussed with you on April 21st that are not embodied in this 17 18 memo? 19 Α Other than the extent it may be further 20 explained in my April 23rd typewritten memo. We talked about more than these limited number of words. 21 but this would be my summary and a few quotes of what 22 80 was said, and I contemporaneously did the April 23 1 memo, which would have further flushed out each one 2 3 of those points. 4 And these allegations, were they news to 5 you at this time, on April 21, 1987? 6 Yes, sir. As we have talked earlier, 7 that's the first time I heard any of this. 8 Again, we have this phone call -- to the best of your recollection, Pat Heritage called you? 9 10 Yes, sir. 11 She simply repeated these allegations? 0 12 A Yes, sir. 13 You said thank you very much. Did you tell her you were going to do any follow-up? 14 No. It was just like, well, Pat, is there 15 anything to any of this crap? As I recall, the 16 17 response was no, this is the first I ever heard of this, there is nothing to any of it, let's proceed 18 ahead. Then I went and discussed it with 19 Mr. Grooms. We discussed it with Mr. Tucker, did the 20

memo and presented it to Mr. Selig. Everybody that considered it thought it was debtor BS and puffery,

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and we proceeded on with the litigation. 1

O How long did this telephone conversation last, the April 21st conversation with Pat Heritage?

Mr. Nappi, I don't know. I don't know, it was 3/10, something like that.

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We discussed a number of things. Fifteen 7 Α 8 minutes to a half hour. I don't know. It didn't go 9 on for an hour or more, no.

O Was this the only matter -- were these allegations, Hopkins allegations, were they the only matter discussed during this telephone call?

As I recall, ves. She had just got off the phone with Greg. The next call was to me, hey, here is what that guy said.

This call may have lasted as long as a half 16 17 hour?

18 A I don't believe it would be that long. I 19 really don't know. Somewhere in the 3/10, 15 20 minutes, 25 minutes, somewhere in that range. I 21 don't know.

These were the only notes you took of this 0

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1 meeting, of this 15-minute phone call, this one page 2 of notes?

Yes, sir.

Pat Heritage did not provide any further 0 information?

No, sir, not that I know of, not that I recall.

Did it seems strange that Hopkins would contact your client rather than you as her attorney or Madison's attorney?

Yes. As we talked before, he shouldn't have. Probably under the ethical rules, he probably shouldn't have contacted my client. Again, it fit the scenario of all of these allegations. He knew it 14 15 wasn't going to work on me, I wasn't going to back 16 off, I was going forward, and if he had any chance of getting anybody to back off, maybe he could convince 17 Pat to back off. So I guess he called Pat. That was

18 my impression why he called her. He couldn't get 19

20 anything from me, so he went around me directly to 21 the client.

22 Q Did this anger you?

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   A I was more pissed about the general
allegations about the firm having this conflict and
churning the bills and that kind of stuff. But yes,
I was also upset that he went straight to the client,
ves.
        Did you call him and confront him about
   0
that?
   Α
        No. I did not.
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        Did you ever call him and discuss any of
these allegations?
        No. I did not.
        Did you ever discuss in any context any of
   O
these allegations?
   Α
       No, I did not.
       MS. BARTLEY: Excuse me --
       THE WITNESS: You mean with Mr. Hopkins?
       BY MR. NAPPI:
   O With Mr. Hopkins.
   Α
        I did not.
       MS. BARTLEY: Thank you.
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You never asked Mr. Hopkins what he meant

1 when he said people are going to prison?

BY MR. NAPPI:

No, I did not.

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Did you discuss these allegations with anyone at Mr. Hopkins's firm, the allegations contained in this April 21, 1987 memo?

Not that I recall, no. Words are cheap. I would just as soon -- we had a lawsuit, and this stuff didn't have anything to do with the lawsuit. I would just as soon let the actions of the litigation speak for themselves as opposed to trying to get from him something I considered just to have no merit whatsoever.

Did Pat Heritage tell you there were O potential problems with campaign contributions to the Clinton campaign from Madison Guaranty?

No, she did not, other than as reflected that Greg said there was an issue there. She didn't identify a separate issue.

Did Pat say whether she was going to run down any of these allegations with anyone at Madison?

That's my general impression, that yes, she was going to follow back up with her people and see

1 if there was any merit. She was going to follow up 2 on it. She wasn't going to stick it in her drawer 3 and forget about it. 4 Do you know if she followed up on it? 0 5 Α No. sir. 6 0 Who was her superior at Madison at this 7 time? 8 Α I don't know. Like I said, Mr. Cuffman I 9 know was there. I don't know -- my recollection is 10 she reported to him. There was also a Ms. Sarah 11 Hawkins there. Maybe she reported to Sarah. I'm not 12 sure. 13 At this time, was John Latham affiliated 14 with Madison Guaranty? I don't know. That's a name I have heard 15 Α 16 before. He could have been. 17 Was Jim McDougal affiliated with Madison? 0 18 Α Not that I recall. I believe Mr. McDougal 19 was no longer there. 20 Do you know if Ms. Heritage ever discussed 21 these allegations with Mr. McDougal? Not that I know of. I simply do not know. 22 1 I just don't know. 2 Do you know if she ever discussed them with 3 Mr. Latham? No, sir. I don't know who she discussed 4 5 them with. 6 Did she discuss these allegations with Jim 0 7 Guy Tucker? 8 I don't know. No, sir, I don't know. Α 9 Did she discuss the allegations contained 10 in the April 21st memo with anyone at Mitchell, 11 Williams? 12 I don't know, other than me. My 13 recollection of it was she told me and I was going to 14 discuss it with the people on this end and she was 15 going to follow up on her end. 16 Do you know if Ms. Heritage ever brought 17 these allegations to the attention of anyone in Governor Clinton's office? 18 No, sir. Again, I don't know who she 19

Q Do you know if Ms. Heritage ever brought the allegations contained in the April 21st memo to

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talked to.

87 1 the attention of any of Governor Clinton's agents or political assistants? 2 No, sir. Same answer. I don't know who 3 4 she discussed it with. Do you know of Ms. Heritage discussed this 5 matter or these allegations with anyone, other than 6 7 vourself? 8 Α No. sir. 9 MR. NAPPI: Off the record. 10 (Recess.) BY MR. NAPPI: 11 Mr. Miller, Ms. Heritage called you with 12 13 these allegations on the 21st. It is your testimony that you did not probe for more information on these 14 issues? They are allegations of conflicts of 15 interests, of churning, of possible criminal 16 conduct. But you just basically took down the 17 allegations as she related them to you? 18 I took them down. I took down the base 19 20 allegations that Greg related to her. No, we 21 discussed every one of the points. MR. PORTNOY: "We"? 22 1 BY MR. NAPPI: 2 "We" being you and Ms. Heritage? 0 3 On the phone that day, to the extent we Α knew anything about them. 4 5 What specific concerns did Ms. Heritage raise? 6 7 Neither one of us really knew enough to raise anything. It was basically this is what 8 Hopkins said that he was considering. Let's take the 9 first one, considering trying to disqualify the 10 Mitchell firm from representation of Madison because 11 of Jim Guy. We discussed what is there, how is it 12 related if Greg alleged Jim Guy had loans there. 13 I have loans at institutions. We all do. 14 15 How does that disqualify me and disqualify the firm 16

from representing the institution?

We ran through all this stuff. The limited information we had, there was no basis to any of it.

We dismissed it as his puffery and moved on.

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Q I know I asked you this, but just to clarify, Ms. Heritage did not describe who the people going to prison were, referring to the language you

use in your memo? 1

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Right. He said a lot of people and it was related to that Dixie Continental/Clinton campaign/lease to the state allegation. Whoever it was that did that deal, in Hopkins's opinion, that was such a bad deal, people were going to go to prison because of that deal.

But you do not recall discussing the allegations relating to the Dixie Continental loan with Marcie Taylor?

No. I don't recall that. I wouldn't rule A that out as a possibility, but I don't recall talking to Marcie about it.

What did you do after concluding this April 21st telephone call with Pat Heritage regarding the substance of the call? What happened next in this progression?

18 As I recall, I went into Tim Grooms's 19 office and said here is what Pat said Greg said. I 20 had my green sheet in my hand to refresh my memory.

21 He said well, that is some pretty serious

22 allegations, let's go talk to Jim Guy. Jim Guy's

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office was down the hall. We trotted into Tucker's 1 2 office. Jim Guy, here we are, here is the deal, we 3 represent Madison suing Peacock, just got him kicked 4 out of bankruptcy, Hopkins calls our client and here 5 is what he is saying and laid out that conversation. You went to Tim Grooms immediately after 6 7 the phone call ended?

8 I don't know if it was immediately or not. 9 I know I discussed it with him at some point. I 10 don't know whether I worked on another file and then 11 talked to Tim.

12 Q Was it that same day?

13 Α Yes.

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Did you discuss this matter with anyone else before you talked to Tim Grooms? By "this matter," I mean the allegations contained in this 17 April 21st memo.

> I doubt very seriously if I did. Α

19 Did you discuss it with anyone else after 0 you discussed it with Mr. Grooms? 20

21 Mr. Grooms and I discussed it with 22 Mr. Tucker.

- 91 Prior to discussing it with Mr. Tucker, you 1 2 did not discuss it with anyone else? 3 Not that I recall. Α 4 Why did you go to Mr. Grooms? 0 5 Again, he was involved in the Madison 6 representation as well. He was a year my senior. He 7 was a lawver that I discussed issues with from time 8 to time. This was one I wanted to bounce off somebody, because this pile of crap had just been 9 laid in my lap and I wanted to discuss it with 10 11 somebody. You don't recall discussing any of these 12 13 allegations with Lynn Pruitt? 14 Α Not that I recall. 15 0 Marcie Taylor? Not that I recall. 16 Α So, you discussed the matter with Tim 17 18 Grooms. Did he affirm any of the allegations contained in your April 21st memo? 19 No, sir. My recollection is that's the 20 first time he had heard of it as well. We both 21 22 concluded it was more puffery or BS on Hopkins's 92 part. But Jim Guy's office was down the hall. Let's 1 2 go get it from the horse's mouth, and we walked down 3 and talked to Jim Guy about it. 4 Was Grooms involved at all in the Dixie 5 loan litigation or the Dixie Continental Leasing 6 litigation? 7 Looking at your Exhibit 1, the examiner's note, it is my recollection that at some point after 8 9 I left the firm in '86-87, it appears there were some 10 pretty substantial settlement conversations, and I think Tim assumed the role of trying -- we are going 11 to get all the lawyers that were working on it, Tim 12 was going to go back and be like the focal point and 13 14 try to deal with Hopkins to work out all of these 15 loans. 16 0 "All these loans" being all the 17 Peacock-related loans? 18 Right, individual, ves. A 19 0 This was subsequent to this conversation on
- 20 April 21st of '87? 21 Right. But even then, Tim as of April of 22 '87 was aware of what I was doing for Madison, was

aware of what Lynn was doing for Madison and Marcie. 1 2 He probably had some of his own going on at that 3 time. 4 0 So, Tim was managing -- specifically in 5 April of '87, Tim was managing --6 A He was not officially assigned the 7 management of this client, no. 8 Was he functioning as a manager for this 9 debt collection litigation? 10 A I talked with him about what I was doing. 11 I know Marcie talked to him from time to time. But I 12 mean -- I don't want to mislead you. No, I don't 13 think you would call him a manager. He was just a guy around here that had some experience doing the 14 15 same kind of stuff we were doing. All of us from 16 time to time would bounce stuff off of him. 17 O How soon after talking to Tim Grooms about 18 this conversation with Pat Heritage did you go and 19 talk to Jim Guy Tucker? 20 I think immediately upon concluding it, we 21 walked down the hall, and as I recall, we found Jim Guy to be in his office. We did it immediately. 22 94 1 O Do you recall that conversation? 2 A I don't have any recall of it other than as 3 reflected in this April 23rd typewritten memo. 4 When you laid out these allegations 5 regarding conflicts of interest, did Mr. Tucker 6 apprise you of his situation with Madison? 7 A Other than he had some loans with Madison. Again, it is all stated on page 4 of that memo. That 8 9 is -- that was my present recollection at the time. 10 There is no sense trying to restate it. It is stated 11 there. 12 MR. NAPPI: Maybe we should focus on this 13 memo then. This will be Exhibit 3. 14 (Miller Exhibit 3 identified.) 15 BY MR. NAPPI: Q It is a memo dated April 23, 1987. It is 16 17 to JSS from LM. It is re: Madison v Peacock. 18 This is the memo you have referred to on 19 several occasions? 20 A It is to Mr. Selig from me stating the

Q Okay. This memo is dated April 23rd. Do

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22

matter.

you recall if you talked to Jim Guy Tucker on April 1 23rd or was it prior to April 23rd? 3 A On page 4, it indicates clearly we talked 4 to him on April 21st. So, there was an intervening day between 5 6 the telephone conversation and your conversation with Grooms and Tucker and the preparation of this memo? 7 8 A What happened was I dictated it either -- I 9 dictate everything I do. I suspect I dictated it on the 21st and it laid on my desk during the 22nd or I 10 11 may have looked at it in the draft form on the 22nd. Probably it was not finalized into this memo copy 12 13 until the 23rd. 14 When you talked with Mr. Tucker on the 15 21st, did you know that he was friendly with Jim 16 McDougal? 17 I don't know what you mean by "friendly Α 18 with" McDougal. 19 What was your understanding of the nature of his relationship with Mr. McDougal? 20 21 I didn't know he had one. 22 Did you know if he knew Jim McDougal? 0 96 1 Again, I'm referring to at the time of these events 2 in April of 1987. 3 I really don't know. I just don't know 4 whether he was or not. 5 When you laid out these allegations for 6 Mr. McDougal -- excuse me. When you laid out these 7 allegations for Mr. Tucker, did he seem concerned? 8 MS. BARTLEY: Wait a minute. The phone beeped again. Could you ask the question again, 9 10 please. 11 MR. NAPPI: Sure. 12 BY MR. NAPPI: 13 Q When you met with Mr. Tucker regarding the 14 allegations Ms. Heritage had forwarded to you, did 15 Mr. Tucker seem concerned? 16 My recollection is no, that he was just 17 kind of, I guess, offended that someone would accuse 18 him or assert that his personal transactions would be 19 an issue in the Peacock litigation, and basically

20 again, it is set out there, that he told us all this 21 stuff had been disclosed. He was not shocked, he 22 wasn't --

97 1 Was he angry? 2 I mean, he wasn't happy that somebody was 3 making accusations against him. But no, I don't think he was angry. 4 5 Now, you are referring to the conflict of 6 interest allegations. Did you discuss with him the allegations regarding the Dixie Continental loan 7 8 proceeds? 9 I don't know if we did or not. I just 10 don't recall. I know we did the sixth issue, that Tucker and McDougal were going to take care of 11 12 Peacock 13 0 What did he say regarding that allegation? 14 He never heard such a thing, didn't know 15 anything about Peacock. He had no arrangement to 16 take care of anybody. Did you ask him about his relationship with 17 18 McDougal and Peacock? 19 I told him the allegation that had been 20 asserted. He responded and assured us there was no 21 merit to it. 22 Q What about the allegations regarding 98 1 churning of bills by Mitchell, Williams; did you discuss this with him? 2 3 I do not recall. I don't know. 4 You go and you tell him, look, he said 5 that, according to Pat Heritage, that you and McDougal are going to take care of Peacock. Did he 6 ask you what you meant by "take care"? 7 Did he ask me what was meant by "take care 8 of'? 9 10 Yes. 0 11 No, not that I recall. 12 You told him this is the allegation, that you and McDougal are going to take care of Peacock, 13 and he said no, we are not going to take care of him? 14 15 No. He didn't say that. It was basically, 16 as I recall, that he never heard of such an 17 allegation, there was no merit to any such

you expressed to Mr. Tucker.
 A As stated in my phone message, that Tucker
 told Heritage that Heritage told me that -- that

I'm not sure what the allegation was that

18

19

allegation.

Hopkins said to Heritage and Heritage repeated to me that according to Peacock, that McDougal and Tucker were supposed to take care of Peacock. I didn't understand what was meant by that, but that's what I relayed to him because that was the allegation that had been said.

As I recall, Jim Guy's response was basically I don't know what the hell they are talking about, I have never heard of such an allegation, there is no merit to it, I can assure you I have no arrangements to take care of McDougal or Peacock. That was it.

Q But you did not know what "taking care of

Peacock" meant?

A No. But I mean in the context of us suing him, it had to have -- it has a normal meaning of not allow the foreclosure to occur or whatever. That was their words, not mine, "take care of."

Q I understand, I understand. Did you ask Mr. Tucker whether he had had any contacts with McDougal or Peacock?

A No.

Q Were you aware of him being involved in any of these Madison-related lawsuits?

A Was I aware of Tucker being involved in any of the Peacock-related lawsuits?

Q Yes, Tucker in his role as a lawyer at Mitchell, Williams.

A No, I don't believe he was.

Q This was the first time you were aware or this was the first time that you are aware of Jim Guy Tucker being engaged in any capacity with respect to any of Madison's litigation?

A Me personally, yes, as best I recall back from '87.

Q And your April 23rd memo fairly captures the conversation that you had with Mr. Tucker?

A Yes, sir, and my impressions of those conversations, yes.

Q Is there any information that is not contained in this memo that you recall?

A No, sir, not that I recall.

Q Now, this is a memo to Mr. Selig, is it

22 not?

1 Α Yes, to John Selig. 2 Why did you write the memo to John Selig? Q 3 Α Because Tucker suggested that I do that. 4 Q He specifically mentioned Selig? 5 Yes. That's what it says on page 4. Α Where it says "Jim Guy suggested I draft 6 7 this memorandum to inform you of the statements made 8 and solicit your advice regarding the allegations 9 made by Mr. Hopkins"? 10 Α Yes 11 0 Why did Mr. Tucker suggest to you you talk 12 to Mr. Selig? 13 I have no idea. On your Exhibit 1, John 14 Selig also signed this letter to the Home Loan Bank Board. Maybe he was the guy dealing with the Home 15 Loan Bank Board. I don't know. 16 17 Did Mr. Tucker ask you to let anyone else 18 know about this call? 19 No. sir. Α 20 It is your recollection that this 21 conversation with Mr. Tucker in April of '87 was the 22 first time you had heard of what you describe in this 102 memo, his substantial involvement with Madison? 1 2 Does it say "substantial involvement with 3 Madison"? 4 Yes. 0 5 A Okav. 6 This is the first you heard of his business 7 relationship with Jim Guy Tucker or Jim McDougal? As I recall, it was the first I was aware 8 9 that Jim Guy had a relationship with Madison. As to 10 his relation with McDougal, I don't know that I had 11 any understanding as to what that was then or now. Did Jim Guy Tucker mention clearing his 12 13 business relationships through the firm's conflicts 14 committee? 15 No, he did not mention that. I don't know 16 that I understand your question. Run it through the 17 conflicts system before he borrows money from 18 anybody? 19 Q Yes. 20 Α No, we didn't talk about anything like

So he didn't mention any contacts he had

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that.

Q

103 with any of the firm members regarding potential 1 conflicts he had with Madison or McDougal? 2 He said what is reflected back in the April 3 4 23rd memo, that his personal financial transactions 5 had been fully disclosed and our representation had 6 been approved by the FSLIC. Page 1 of the memo, third paragraph refers 7 to "substantial wrongdoing regarding the prior 8 administration of Madison." Do you recall who that 9 10 reference was to? 11 Α No. Whoever was there before. 12 Was it to Jim McDougal? 0 I don't know. I would think if someone 13 said Jim McDougal, I would have put down Jim 14 15 McDougal. Did Mr. Tucker ask you about this? 16 Q 17 Α No. 18 0 Did he ask you who is allegedly going to 19 prison and what the -- did he ask you who was allegedly going to prison? 20 No. I don't know whether, from the phone 21 22 conversation, I even told Jim Guy about the Dixie 104 1 Continental stuff. 2 Excuse me? O 3 I don't even recall from the phone conversation, the follow-up meeting with Jim Guy if I 4 5 even discussed with him the Dixie Continental stuff, 6 those allegations. 7 You are not certain if you did discuss those allegations with Mr. Tucker? 8 9 A That's correct. 10 Those discussions are summarized on page 3 0 of your memo. 11 12 Correct. So -- you previously testified that this 13 memo embodied what you told Mr. Tucker. You are not 14 15 certain of that? Sir, I'm confused or you are confused. I 16 17 don't recall exactly what I talked to Jim Guy about. This memo shows that he was provided a copy of it. 18 He is cc'd on page 4. The best of my recollection is 19 20 that when I went to talk to Jim Guy -- Pat Heritage

called, I visited with Tim and we went to see Jim

Guy. The best of my recollection is that Tim and I

- 105 discussed with Jim Guy those allegations against 1 2 him. I see on my green sheet, the phone messages, 3 the first one and the last one. When I did the memo. I did the memo on everything and he was copied on 4 5 that memo. 6 No, I can't tell you here whether or not I 7 discussed allegation number 2 with Mr. Tucker. 8 Okay. But Mr. Tucker received a copy of 9 this memo? 10 Yes, sir. 11 O Do you know if Mr. Tucker read this memo? 12 I assume he did, but I do not know that. Α 13 What happened to page 2 of this memorandum, 0 14 the April 23rd, 1987 memorandum? 15 It is misnumbered, since it all flows the same. The text flows, so I assume she just 16 17 misnumbered it. 18 O You are not aware of there being missing 19 text from this memo? This is the complete memo that 20 you prepared? 21 The best of my recollection, it is. I did 22 it in '87 and it stayed in the file until the 106 1 reporter handed it back to me in July or August of 2 '95. When the reporter asked you to look at it, 3 4 did you look at the file copy you had? 5 I looked at a copy we had, yes. Our copy 6 matched his copy. Our originals, I guess, have been 7 turned over to one of you government guys. Do you recall what file you found the copy 8 9 of this memo in? 10 A Madison Peacock. Do you have a file number for that? 11 0 Probably somewhere. It looks like it would 12 A 13 be 5615-18. 14 MR. NAPPI: Could you confirm that for us 15 after the deposition? MS. BARTLEY: We can do that. You want us 16 17 to confirm the file number? 18 MR. NAPPI: Please.
- 21 Mr. Miller, do you have personal files on 22 other matters you worked for on Madison -- other

MS. BARTLEY: All right.

BY MR. NAPPI:

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1 Madison matters you worked on? 2 That I have? No. 3 These would be in the firm's general files? A Yes. They would be in the firm's Madison 4 files. They wouldn't be in -- anything that I work 5 on, there is a file, and that would be in the firm's 6 files, yes. I don't have personal files. I have 7 personal files on personal matters, not on client 8 9 matters. Your firm's Madison files are still in 10 0 11 existence? 12 Yes, sir, to the best of my knowledge, a copy of them anyway. Again, the originals have been 13 14 turned over to somebody. 15 0 Okav. If I could direct your attention to page 4 16 17 of your memo. 18 Yes, sir. Α MR. PORTNOY: For the record, page 4, it is 19 enumerated page 4 but it is the third page of the 20 21 memo. 22 MR. NAPPI: Exactly. 108 1 BY MR. NAPPI: 2 The third page of your memo. Q 3 I'm with you. Α 4 Q The first full paragraph, last sentence. 5 Α All right. "I'm greatly offended that Mr. Hopkins has 6 imputed that Mr. Tucker is in some way involved with 7 the fraudulent dealings." What fraudulent dealings 8 9 are you referring to here? I assume that's a reference to that last 10 allegation there that somebody was going to take care 11 of Peacock. 12 Q And that's an allegation that you discussed 13 14 with Mr. Tucker and he dismissed? 15 Α Yes, sir. 16 O How long did your conversation with you, Mr. Grooms and Mr. Tucker last? 17 18 I do not recall. It wasn't lengthy at all. Maybe -- after all these years, looking back, 19 20 my recollection is it was no more than 10 minutes, 21 maybe five. 22 What did Mr. Tucker ask you to do as a 0

follow-up to this meeting? 1

As reflected in the memo, he asked me to 2 3 advise John Selig of all these allegations.

- 4 Did he ask you to advise anyone else about 5 these allegations?
 - No. sir. Α
- 7 0 No one outside of the firm?
- 8 No. sir. Α
- 9 O Did Mr. Tucker make it clear he would

follow up with Mr. McDougal regarding these

11 allegations?

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10

12 No. Where do you get that? No. It was 13 nothing like that.

14 O Did Mr. Tucker indicate that he was going 15 to follow up on these allegations with anyone else outside the firm? 16

17 No. sir. A

18 Did Mr. Tucker indicate what you should 19 report to Mr. Selig? We have six allegations here.

20 Did he want you to report all of these allegations?

21 Again, as reflected in the memo, he said to 22 basically disclose everything, someone is making

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allegations, put it down and tell John Selig about it 1 all. That's what I did. 2

3 And you are not certain why he wanted you 4 to tell Mr. Selig, that being Mr. Tucker?

5 The only -- I don't remember John's involvement. I assume for some reason he was 6

7 involved with Madison some way, and Jim Guy, he was

8 assuming he was the guy in charge of Madison, and

9 that's why I should tell John because he was the guy

10 dealing with the Home Loan Bank Board. 11

Is it your recollection that John was the attorney responsible for Madison matters?

That is -- no, that's not my recollection. 13

14 It is based solely on the fact he signed your

15 September 25, '87 memo. That is my conclusion by

putting those two together. 16

17 Prior to the staff directing your attention 18 to that memo, did you have any recollection that Mr. Selig was the managing attorney for Madison 19

20 matters?

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I don't as I sit here. I don't know -- no, 21 22 I don't as I sit here. I just don't recall back then

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1	who was responsible for Madison. My job was to	
2	collect loans. That's what I was doing. If there	
3	were other Madison matters going on, it didn't	
4	involve me.	
5	Q Did you discuss the allegations that	
6	Ms. Heritage forwarded to you with anyone at the firm	
7	other than Mr. Grooms, Mr. Selig and Mr. Tucker at	
8	the time that they occurred, in April of 1987?	
9	A Not that I recall.	
0	Q Did you meet with Mr. Selig to discuss	
1	these allegations or did you just forward him a memo?	
2	A The best I recall, I just forwarded him a	
3	memo.	
4	Q You never talked to Mr. Selig about it?	
5	A Did I talk to Mr. Selig about it?	
6	Q About the memo.	
7	A Not that I recall.	
8	Q Do you know if Mr. Selig pursued any of	
9	these allegations?	
20	A I don't.	
21	Q Did Mr. Selig and Mr. Tucker discuss these	
22	allegations?	
22	allegations?	112
1	A I don't know.	112
1 2	A I don't know. Q Again, directing your attention to this	112
1 2 3	A I don't know. Q Again, directing your attention to this April 23rd memo.	112
1 2 3 4	A I don't know. Q Again, directing your attention to this April 23rd memo. A Yes, sir.	112
1 2 3 4 5	A I don't know. Q Again, directing your attention to this April 23rd memo. A Yes, sir. Q I don't see where in this memo there is a	112
1 2 3 4 5 6	A I don't know. Q Again, directing your attention to this April 23rd memo. A Yes, sir. Q I don't see where in this memo there is a discussion of the allegations that Mr. Tucker and	112
1 2 3 4 5 6 7	A I don't know. Q Again, directing your attention to this April 23rd memo. A Yes, sir. Q I don't see where in this memo there is a discussion of the allegations that Mr. Tucker and Mr. McDougal would take care of Mr. Peacock. Take	112
1 2 3 4 5 6 7 8	A I don't know. Q Again, directing your attention to this April 23rd memo. A Yes, sir. Q I don't see where in this memo there is a discussion of the allegations that Mr. Tucker and Mr. McDougal would take care of Mr. Peacock. Take your time, please, review the memo and tell me where	112
1 2 3 4 5 6 7 8 9	A I don't know. Q Again, directing your attention to this April 23rd memo. A Yes, sir. Q I don't see where in this memo there is a discussion of the allegations that Mr. Tucker and Mr. McDougal would take care of Mr. Peacock. Take your time, please, review the memo and tell me where those allegations are summarized.	112
1 2 3 4 5 6 7 8 9	A I don't know. Q Again, directing your attention to this April 23rd memo. A Yes, sir. Q I don't see where in this memo there is a discussion of the allegations that Mr. Tucker and Mr. McDougal would take care of Mr. Peacock. Take your time, please, review the memo and tell me where those allegations are summarized. (Witness examined the document.)	112
1 2 3 4 5 6 7 8 9	A I don't know. Q Again, directing your attention to this April 23rd memo. A Yes, sir. Q I don't see where in this memo there is a discussion of the allegations that Mr. Tucker and Mr. McDougal would take care of Mr. Peacock. Take your time, please, review the memo and tell me where those allegations are summarized. (Witness examined the document.) A I don't see it either, other than on page 4	112
1 2 3 4 5 6 7 8 9 10	A I don't know. Q Again, directing your attention to this April 23rd memo. A Yes, sir. Q I don't see where in this memo there is a discussion of the allegations that Mr. Tucker and Mr. McDougal would take care of Mr. Peacock. Take your time, please, review the memo and tell me where those allegations are summarized. (Witness examined the document.) A I don't see it either, other than on page 4 where it just says "Jim Guy reassured us that he has	112
1 2 3 4 5 6 7 8 9 110 111 112 113	A I don't know. Q Again, directing your attention to this April 23rd memo. A Yes, sir. Q I don't see where in this memo there is a discussion of the allegations that Mr. Tucker and Mr. McDougal would take care of Mr. Peacock. Take your time, please, review the memo and tell me where those allegations are summarized. (Witness examined the document.) A I don't see it either, other than on page 4 where it just says "Jim Guy reassured us that he has no conflict with regard to his personal transactions	112
1 2 3 4 5 6 7 8 9 10 11 11 12	A I don't know. Q Again, directing your attention to this April 23rd memo. A Yes, sir. Q I don't see where in this memo there is a discussion of the allegations that Mr. Tucker and Mr. McDougal would take care of Mr. Peacock. Take your time, please, review the memo and tell me where those allegations are summarized. (Witness examined the document.) A I don't see it either, other than on page 4 where it just says "Jim Guy reassured us that he has no conflict with regard to his personal transactions with Madison, informed us that a full disclosure of	112
1 2 3 4 5 6 7 8 9 10 11 12 13 14	A I don't know. Q Again, directing your attention to this April 23rd memo. A Yes, sir. Q I don't see where in this memo there is a discussion of the allegations that Mr. Tucker and Mr. McDougal would take care of Mr. Peacock. Take your time, please, review the memo and tell me where those allegations are summarized. (Witness examined the document.) A I don't see it either, other than on page 4 where it just says "Jim Guy reassured us that he has no conflict with regard to his personal transactions with Madison, informed us that a full disclosure of his transaction with Madison has been made to the	112
1 2 3 4 5 6 7 8 9 10 11 112 113 114 115 116	A I don't know. Q Again, directing your attention to this April 23rd memo. A Yes, sir. Q I don't see where in this memo there is a discussion of the allegations that Mr. Tucker and Mr. McDougal would take care of Mr. Peacock. Take your time, please, review the memo and tell me where those allegations are summarized. (Witness examined the document.) A I don't see it either, other than on page 4 where it just says "Jim Guy reassured us that he has no conflict with regard to his personal transactions with Madison, informed us that a full disclosure of his transaction with Madison has been made to the FSLIC and representation of our firm has been	112
1 2 3 4 5 6 7 8 9 10 11 112 113 114 115 116 117	A I don't know. Q Again, directing your attention to this April 23rd memo. A Yes, sir. Q I don't see where in this memo there is a discussion of the allegations that Mr. Tucker and Mr. McDougal would take care of Mr. Peacock. Take your time, please, review the memo and tell me where those allegations are summarized. (Witness examined the document.) A I don't see it either, other than on page 4 where it just says "Jim Guy reassured us that he has no conflict with regard to his personal transactions with Madison, informed us that a full disclosure of his transaction with Madison has been made to the FSLIC and representation of our firm has been approved." I don't see it here either.	112
1 2 3 4 5 6 7 8 9 10 11 112 113 114 115 116	A I don't know. Q Again, directing your attention to this April 23rd memo. A Yes, sir. Q I don't see where in this memo there is a discussion of the allegations that Mr. Tucker and Mr. McDougal would take care of Mr. Peacock. Take your time, please, review the memo and tell me where those allegations are summarized. (Witness examined the document.) A I don't see it either, other than on page 4 where it just says "Jim Guy reassured us that he has no conflict with regard to his personal transactions with Madison, informed us that a full disclosure of his transaction with Madison has been made to the FSLIC and representation of our firm has been	112

want. I don't know. I don't know. Did you ever apprise Mr. Selig of the Q

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You can draw whatever conclusions you

1 allegations that Jim Guy Tucker and Jim McDougal were 2 going to take care of Charles Peacock?

I don't recall. I don't recall.

4 0 Did Mr. Tucker direct you to not inform Mr. Selig about these allegations that he and 5 6

Mr. McDougal would take care of Mr. Peacock?

Not in any way, shape, form or fashion. 7 Jim Guy's response was to disclose it, disclose the 8 allegations to John and then seek his advice on where 9 10 to go from here.

> But you did not seek Mr. Selig's advice? 0

12 Α That's not true.

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13 Well, you said -- I think you testified you forwarded him the memo but you never discussed the 14 memo with him? 15

You asked me did we meet about it. I don't 16 17 recall us specifically meeting about it. This all --18 again, I'm a first year collection lawyer. These are

19 bigger issues that -- I don't know who John -- he may

20 have picked up the phone and called the person in 21 charge at Madison. I don't know. The allegations

22 were made thirdhand, fourthhand, whatever they were.

114

I reduced them to writing as best I recall and 1 2 submitted it and at some point thereafter was given the go-ahead that we proceed full steam ahead to 3 4 collect these loans. 5

Mr. Tucker was a partner at the firm, he tells you to follow up with Mr. Selig, another partner. You did not follow up with Mr. Selig other than providing him this memo?

9 As I recall sitting here today, I know I provided him the memo. We may have very well met 10 about it. I don't recall us specifically meeting 11 12 about it.

And Mr. Tucker never told you to --Mr. Tucker never directed you not to tell anyone about the allegations that he and Mr. McDougal would take care of Mr. Peacock?

I know I have answered this a couple times 17 18 before. There is no basis whatsoever for that 19 statement. He did not. He told me -- I discussed 20 with him the allegations that have been made. He 21 said I can assure you there is nothing -- as

22 reflected in the memo -- there is nothing to all

this, but we will be clean and disclose it all to 1 2 John

0 That's my concern, that this one allegation, the last allegation in your handwritten notes, is not disclosed to John. Were you directed by Mr. Tucker not to disclose this allegation to anvone?

For the fourth time, no.

Thank you. O

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Do you have any recollection as to why this 10 11 allegation was not disclosed in this memo?

I assume it was faulty drafting on my 12 13 part.

But you don't have any specific 14 recollection as to why this allegation is not 15 16 disclosed in this memo?

17 No, sir. The whole gist of my conversation I believe is reflected in my memo. 18

These allegations that Ms. Heritage brought 19 to your attention, who at Mitchell, Williams did you 20 21 discuss these allegations with other than Mr. Tucker 22 and Tim Grooms?

116

1 I don't believe I discussed it with anyone 2 other than Mr. Selig through the memo. At some point thereafter I may have discussed it with Marcie Taylor 3 about Dixie, but I have no recollection of that. If 4 I did, it would have been John Selig, Marcie Taylor, 5 6 Lynn Pruitt and Tim Grooms and Jim Guy, as all 7 reflected in here. 8

After preparing this memorandum, this April 9 23rd memorandum and distributing it to Mr. Selig and Mr. Tucker, did you do any further follow-up 10 regarding these allegations, trying to verify the 11 12 truth of these allegations? 13

No. sir. I did not.

14 Did anyone at the firm ever try to verify any of the allegations contained in the April 21st or 15 16 April 23rd memo?

17 Α I do not know what anyone else at the firm 18 did or didn't do.

Did you ever have any contact with anyone at the Arkansas governor's office regarding these allegations?

Then? Now? Α

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20 21

117 1 0 At the time they were made. 2 Α No. sir. 3 O Subsequent to the time they were made? 4 No. sir. Α 5 Did you ever discuss these allegations with 0 6 any political aide to Governor Clinton? 7 No. sir. I was such a peon, I couldn't 8 have gotten in the governor's office. 9 Subsequent to April 1987, did you ever 10 discuss it with any political aide to Governor 11 Clinton? 12 Α No. sir. 13 You never discussed these matters with 14 Governor Clinton, any of these allegations? 15 A No. sir. Are you aware of whether Jim Guy Tucker 16 0 17 ever discussed any of these allegations? MR. PORTNOY: Asked and answered. He has 18 19 already said he has no idea what Mr. Tucker did. 20 Go ahead, sir. 21 THE WITNESS: With whom? 22 BY MR. NAPPI: 118 1 Q With anyone in the Arkansas governor's 2 office. 3 Α No. sir. no idea. 4 With any political aide of Governor 0 5 Clinton? 6 Α No. sir. no idea. 7 With Governor Clinton himself? 0 8 A No. sir. no idea. Do you know if anyone who was employed at 9 the Mitchell, Williams firm in April of 1987 ever 10 11 discussed any of these allegations with any member of the Arkansas governor's office? 12 MR. PORTNOY: Again, asked and answered. 13 14 Please answer. 15 BY MR. NAPPI: 16 Q If I asked and answered, I apologize. The 17 record will indicate 18 A I believe the record would so indicate. 19 But go ahead. 20 0 I do not recall the answer. Could you 21 answer that? 22 No, sir, I'm not aware of anyone at the

- Mitchell firm discussing this with anyone else. 1
- 2 You are not aware of anyone at the Mitchell
- 3 firm in '87 discussing it with any political aide of
- Governor Clinton? 4
- That's correct. I'm not aware of any such 5 6 conversation.
- 7 Did you ever discuss any of these 8 allegations with Charles Peacock?
- 9 No. sir.
- 10 O Do you know if Jim Guy Tucker ever 11 discussed these allegations with Charles Peacock?
- No, sir, I do not know. 12
- 13 Do you know if anyone at Mitchell, Williams 14 ever discussed these allegations with Charles
- 15 Peacock?
- 16 A No, sir, do not know.
- You are not aware of any attempt to track 17 down the use of the proceeds of the Dixie Continental 18 19 loan?
- 20 MR. PORTNOY: Other than this committee?
- 21 THE WITNESS: No, sir. Like I stated before, Pat was going to follow up on her end and we 22

120

1 were going to follow up on this end. 2

BY MR. NAPPI:

- 3 Did Pat Heritage ever get back to you on 4 her follow-up?
- 5 I received the word from the client and
- 6 from the members of my firm that these allegations were such complete and total BS that I was given the 7
- 8 instructions to proceed full speed ahead to collect
- 9 these debts.
- 10 Did Pat Heritage ever get back to you on her follow-up regarding the use of the loan proceeds 11 12 in question?
- 13 I do not recall any specific conversation 14 about the use of these loan proceeds. I do know that
- 15 it was discussed with Pat that there was no merit to 16 these allegations and for us to proceed full speed 17 ahead to collect the loans.
- 18 Who discussed this with Pat, that you 19 should proceed full speed ahead? Was that a
- 20 discussion you had with Pat Heritage? 21 Yes. I assume she discussed it with her

22 appropriate superiors.

121 1 As far as you are aware, no one did any follow-up on whether any Peacock loans were used or 2 any funds of any loan made by Madison to Peacock or 3 any of the entities --4 5 I assume the institution did. I did not. 6 But they never responded to you as to 7 whether they looked into loan proceeds being used for 8 campaign contributions? 9 Again, Ms. Heritage responded there was no 10 merit to these allegations and we should proceed full speed ahead to collect these loans. 11 12 Do you recall when this conversation took 13 place or when she told you this? 14 A No, but shortly thereafter we proceeded to sue them in White County, and this March 25th letter 15 16 indicates that happened on May 4th. 17 Q You mean the September 25th letter? 18 Yes, sir. I'm sorry. I assume it was sometime between April 23rd and May 4th, and allowing 19 some time for drafting and all that. So, it was 20 21 pretty much right afterwards. 22 MR. NAPPI: Okay. Off the record. 122 1 (Discussion off the record.) 2 MR. NAPPI: We are back on the record. 3 Ms. Bartley had to leave the conference room in 4 Little Rock for a moment. Mr. Miller has suggested 5 at his own initiative that we move forward on this deposition until Ms. Bartley returns. 6 7 Is that not correct, Mr. Miller? 8 THE WITNESS: That is correct. 9 BY MR. NAPPI: 10 Q Do you recall when Pat Heritage called you and told you to move forward on the Peacock-related 11 12 litigation? 13 No, sir. I can only assume from the 14 September 25th memo which reflects the litigation was 15 commenced on May 4th that it was sometime between 16 April 23rd and May 4th. 17 Q Did she contact you personally? 18 A Yes, sir. To the best of my recollection, 19 she did. 20 Did you make notes of this conversation? Q

I don't know whether I did or not.

Obviously if they haven't been produced, there are

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	123
1	not any.
2	Q I would request, for the record, that you
3	review the relevant firm files and see if you have
4	notes of your follow-up conversation or any follow-up
5	conversation you had with Ms. Heritage regarding the
6	Peacock matters.
7	A Sherry returned. Sherry, I authorized them
8	to go ahead.
9	MR. NAPPI: Sherry, I requested that you
10	search the Peacock files for any notes or memos that
11	Lance did regarding follow-up with Ms. Heritage.
12	MS. BARTLEY: All right.
13	MR. PORTNOY: Is it your understanding, if
14	I might, that the entire file has been turned over?
15	THE WITNESS: My understanding, it has been
16	to the RTC.
17	MR. PORTNOY: Thank you.
18	BY MR. NAPPI:
19	Q Mr. Miller, I want to run through some
20	other Madison-related matters.
21	A All right.
22	Q Are you aware that Mitchell, Williams
	124
1	represented Madison regarding its 1986 Federal Home
2	Loan Bank examination?
3	A No, sir.
4	Q Do you recall having any discussions with
5	anyone at the firm regarding the 1986 examination?
6	A No, sir.
7	Q Were you aware that a special meeting of
8	the Madison board of directors took place at your law
9	firm in July of 1986?
10	A No, sir.
11	Q Subsequent to the 1986 examination of
12	Madison, were you aware of any discussions at the
13	firm regarding Madison's financial condition?
14	MR. PORTNOY: Just for the record, the
15	witness has testified that he was unaware of the
16	meeting, so it would be difficult for him to
17	establish whether something occurred prior to or
18	subsequent.
19	MR. NAPPI: You are right. I stand
20	corrected.
21	BY MR. NAPPI:

Were you ever a party to any discussions

22

Q

regarding Madison's financial condition?

No, sir, not that I recall. I knew they had some bad loans. Most of my clients have bad

loans when I become involved. But I had no idea 4

5 about the solvency or anything else of the 6

institution.

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7 Prior to Madison being taken over by the 0 FDIC? Were you aware at the time of -- let me 8 9 rephrase this.

Were you aware in 1989 that Madison had 10 11 been taken over by the FDIC?

No, sir. Was I then?

0 Ves

14 Unless I read it in the newspaper or

15 something. I was not back here until August of '89.

16 So I don't know when that occurred. If it happened

while I was in Little Rock, I probably read it in the 17 18 newspaper or something.

19 Q While at Mitchell, Williams -- and again,

I'm referring in your capacity as a law clerk and as 20 21 a practicing attorney -- did you ever work on any

22 matters relating to Castle Grande?

126

Not that I recall.

Q Do you recall any discussions at the firm regarding Castle Grande?

A No, sir, not that I recall. I don't think that was a collection matter that I was responsible for.

7 Q Were you involved in the litigation that your firm handled against Seth Ward? 8 9

Α No. sir.

10 Did you work on any matters relating to a land development called Campobello? 11

A No

Have you ever heard of an individual named Bill Healey?

MS. BARTLEY: Spell that last name, please.

17 MR. NAPPI: H-e-a-l-e-y.

THE WITNESS: No, sir, I don't know that I 18 19 have ever heard of that name.

20 BY MR. NAPPI:

21 Have you ever heard of a piece of property 22 or a matter referred to as 1308 Main Street?

127 No. sir, not as related to Madison. This 1 is going to be a weird answer. There was a softball 2 team one time we played in the softball league, there 3 4 was a group of lawyers that rented a building that was something like 1308 Main Street that played in 5 our league. But not in the Madison context, no. 6 During your employment at the Mitchell 7 firm, were you ever involved in a proposed issuance 8 of subordinated debt by Madison? 9 No. sir. I was a cub collection lawyer. 10 Did you ever discuss a proposed issuance of 11 subordinated debt with any of the other attorneys at 12 13 Mitchell? 14 A No, sir, never heard of such a thing. We had a lot of subordinated debt, but it was just 15 behind somebody else's priority lien. That's all. 16 Did you ever discuss with any Mitchell 17 attorneys Madison's proposed establishment of a 18 19 broker/dealer? No. sir, never heard of such a thing. 20 O Do you know anything about the Mitchell 21 firm's work on Madison's proposed establishment of a 22 128 1 broker/dealer? 2 No. sir. Α Do you know anything about the Mitchell 3 firm's work on any issuance of stock by Madison 4 5 Guaranty? 6 Α No, sir. That would have been totally 7 beyond any scope of my representation. 8 Were you ever a party to a conversation with anyone at your firm regarding possible fraud at 9 Madison Guaranty? 10 11 No, sir, unless you want to include that in these allegations we have talked about. 12 Other than those allegations. 13 0 14 A Sir? 15 O Excuse me? 16 Other than those proposed allegations? Α 17 O 18 No. That's the only -- if you even want to 19 call that fraud, that's the only thing I have heard 20 of.

Q Did you ever work on any personal matters

for Jim Guy Tucker while you were at Mitchell,

21

1 Williams?

2 Jim Guy personally, probably not. There 3 may have been one of his business entities that the 4 firm was counsel for his corporation and his wife. I don't know if I worked on any of those, but I could 5

6 have.

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7 0Do you recall the name of the entity that 8 you are thinking of?

9 Α No

10 O Was it Castle Sewer and Water?

11 A I don't believe so.

12 0 Are there any records that you could check 13 to refresh your recollection?

14 Whether I have ever worked on Castle Sewer and Water? 15

0 Ves

17 There probably is. Again, it would be one 18 of the records that has been turned over.

19 I would ask that you go back and review the 20 relevant file.

21 A What file?

Is there a file at your firm regarding a

130

personal matter of Jim Guy Tucker's that you reviewed or that you could review?

A No, there is not. I'm trying to answer 3 4 your broad question in that I know at one time Jim 5 Guy had a business interest, and I think it was 6 related to one of his cable companies. We did some 7

work for him on that. I could have worked on a 8 limited, like a research project or even as a law

9

clerk done something on one of those files. But it 10 would have been for that corporate client, not for

11 Jim Guy. It wasn't any Castle Sewer or anything like 12 that.

Are you certain it was a cable TV concern?

MR. PORTNOY: I believe Mr. Miller has testified that he is not even certain that he worked on anything, but that if he did work on anything, he supposes it might have been a cable concern.

THE WITNESS: That's correct. I don't even recall working on it.

BY MR. NAPPI:

21 Q Do you recall any conversations with any employee of Mitchell, Williams regarding Castle Sewer 22

	131
1	and Water?
2	A No, sir, none whatsoever.
3	Q Any discussion of legislation regarding
4	deregulation of small sewer and water companies?
5	A No, sir, no, sir. I can assure you.
6	Q Prior to your April 1987 meeting with Jim
7	Guy Tucker, do you recall any other matters you had
8	worked on with Mr. Tucker?
9	A Yes, sir.
10	Q Can you describe those matters? Do you
11	recall the case names?
12	A Yes. There was I don't know that I can
13	disclose the case names.
14	MR. PORTNOY: Can we ask the witness
15	whether they pertain in any way, shape or form to
16	specific entities rather than asking him the general
17	question of all matters he worked on?
8	MS. BARTLEY: We would appreciate that. We
19	have a waiver as to Madison matters. We really don't
20	have a waiver as to other clients. I don't want us
21	wandering off in a general way into privileged
22	matters that have nothing to do with Madison.
	132
1	MR. NAPPI: Fair enough.
2	MS. BARTLEY: If you all can understand
3	MR. NAPPI: I understand.
4	BY MR. NAPPI:
5	
	Q Prior to April of 1987, did you ever work
6	with Jim Guy Tucker on any Madison-related matter?
7	with Jim Guy Tucker on any Madison-related matter? A None whatsoever.
7 8	with Jim Guy Tucker on any Madison-related matter? A None whatsoever. Q Subsequent to April 1987 and the meeting
7 8 9	with Jim Guy Tucker on any Madison-related matter? A None whatsoever. Q Subsequent to April 1987 and the meeting you had with Mr. Tucker, did you ever work with him
7 8 9	with Jim Guy Tucker on any Madison-related matter? A None whatsoever. Q Subsequent to April 1987 and the meeting you had with Mr. Tucker, did you ever work with him on any Madison-related matter?
7 8 9 10	with Jim Guy Tucker on any Madison-related matter? A None whatsoever. Q Subsequent to April 1987 and the meeting you had with Mr. Tucker, did you ever work with him on any Madison-related matter? A None.
7 8 9 10 11	with Jim Guy Tucker on any Madison-related matter? A None whatsoever. Q Subsequent to April 1987 and the meeting you had with Mr. Tucker, did you ever work with him on any Madison-related matter? A None. Q Did you ever discuss any Madison-related
7 8 9 10 11 12	with Jim Guy Tucker on any Madison-related matter? A None whatsoever. Q Subsequent to April 1987 and the meeting you had with Mr. Tucker, did you ever work with him on any Madison-related matter? A None. Q Did you ever discuss any Madison-related matter with Mr. Tucker other than the meeting that is
7 8 9 10 11 12 13	with Jim Guy Tucker on any Madison-related matter? A None whatsoever. Q Subsequent to April 1987 and the meeting you had with Mr. Tucker, did you ever work with him on any Madison-related matter? A None. Q Did you ever discuss any Madison-related matter with Mr. Tucker other than the meeting that is memorialized in your April 23rd, 1987 memo?
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7 8 9 10 11 12 13 14 15 16	with Jim Guy Tucker on any Madison-related matter? A None whatsoever. Q Subsequent to April 1987 and the meeting you had with Mr. Tucker, did you ever work with him on any Madison-related matter? A None. Q Did you ever discuss any Madison-related matter with Mr. Tucker other than the meeting that is memorialized in your April 23rd, 1987 memo? A None that I recall. Q Do you know an individual named R.D. Randolph?
7 8 9 10 11 12 13 14 15 16 17	with Jim Guy Tucker on any Madison-related matter? A None whatsoever. Q Subsequent to April 1987 and the meeting you had with Mr. Tucker, did you ever work with him on any Madison-related matter? A None. Q Did you ever discuss any Madison-related matter with Mr. Tucker other than the meeting that is memorialized in your April 23rd, 1987 memo? A None that I recall. Q Do you know an individual named R.D. Randolph? A No, sir. I think that name has been in the
7 8 9 110 111 112 113 114 115 116 117 118	with Jim Guy Tucker on any Madison-related matter? A None whatsoever. Q Subsequent to April 1987 and the meeting you had with Mr. Tucker, did you ever work with him on any Madison-related matter? A None. Q Did you ever discuss any Madison-related matter with Mr. Tucker other than the meeting that is memorialized in your April 23rd, 1987 memo? A None that I recall. Q Do you know an individual named R.D. Randolph? A No, sir. I think that name has been in the paper, but I don't know who he is.
7 8 9 10 11 11 12 13 14 15 16 17 18 19 20	with Jim Guy Tucker on any Madison-related matter? A None whatsoever. Q Subsequent to April 1987 and the meeting you had with Mr. Tucker, did you ever work with him on any Madison-related matter? A None. Q Did you ever discuss any Madison-related matter with Mr. Tucker other than the meeting that is memorialized in your April 23rd, 1987 memo? A None that I recall. Q Do you know an individual named R.D. Randolph? A No, sir. I think that name has been in the paper, but I don't know who he is. Q Do you recall ever seeing a memo prepared
7 8 9 110 111 112 113 114 115 116 117 118	with Jim Guy Tucker on any Madison-related matter? A None whatsoever. Q Subsequent to April 1987 and the meeting you had with Mr. Tucker, did you ever work with him on any Madison-related matter? A None. Q Did you ever discuss any Madison-related matter with Mr. Tucker other than the meeting that is memorialized in your April 23rd, 1987 memo? A None that I recall. Q Do you know an individual named R.D. Randolph? A No, sir. I think that name has been in the paper, but I don't know who he is.

133 1 and Water? 2 No, sir, never heard such thing. Α 3 MR. NAPPI: I have no further questions. 4 THE WITNESS: Thank you. 5 **EXAMINATION** 6 BY MR. PORTNOY: 7 Good evening, Mr. Miller. Q 8 A Good evening. 9 O I have just a few minutes. 10 This is Jim? A 11 This is Jim. Q 12 A All right. 13 Last time I looked anyway. 0 14 With respect to your conversation with Ms. Heritage, let me trace the chain of information, 15 if I might. You spoke to Ms. Heritage and she 16 17 related to you information that she received from Mr. Hopkins; is that correct? 18 19 A Yes, sir. 20 Do you have any information about where 21 Mr. Hopkins received his information? 22 My recollection was that Mr. Peacock told 134 1 him. 2 So, in other words, you were receiving this 3 information, in effect, fourthland? 4 Yes, sir. A 5 Do you have any firsthand knowledge regarding any of the allegations that were relayed to 6 7 you by Ms. Heritage? 8 A No. sir. 9 Q Do you have any information regarding the use of the proceeds of Madison's loan to Dixie? 10 11 No. sir. A Do you have any information concerning the 12 13 state's lease of office space from Madison Guaranty? 14 No. sir. A 15 0 At the time these allegations were made, 16 you had just defeated Mr. Peacock in bankruptcy court 17 litigation, had you not? 18 A Yes, sir. 19 Do you recall his reaction to his defeat? 20 Was he angry? Was he upset? 21 He and Greg were both upset. The primary

collateral was his personal home located on 70 acres

135 1 in Bald Knob, Arkansas. The very next step was for 2 us to come kick him out of his house. So, ves, he 3 was very upset. 4 So, the litigation in which you had 5 prevailed actually cost him his home? 6 Correct. You said that in your view, Mr. Hopkins and 7 0 8 by extension Mr. Peacock were trying to avoid the 9 debts to Madison or get out of them? 10 Correct. 11 In your view, would Mr. Peacock have gone 0 12 so far as to lie in his efforts to get out of those 13 debts? 14 Α I mean, I don't like to use that word, but 15 I mean debtors are very creative in their -- they convince themselves that their personal financial 16 17 problems are everybody else's fault but theirselves. They rationalize to themselves that they shouldn't 18 19 have to pay their debts back. There is always some 20 reason. It was my conclusion that Mr. Peacock had convinced himself that he shouldn't have to pay these 21 22 debts back. 136 1 MR. NAPPI: Mr. Miller, you did testify 2 that you never discussed these allegations with 3 Mr. Peacock; is that correct? 4 THE WITNESS: That's correct. 5 BY MR. PORTNOY: 6 At the time of your conversation with 7 Ms. Heritage, did you have any reason whatsoever to lend any credence to Mr. Hopkins's allegations? 8 9 None whatsoever. 10 0 Do you now? 11 Α No, I do not now. 12 Mr. Hopkins reportedly stated that he was 13 considering discontinuing his representation of the 14 Peacocks. 15 Correct. Α 16 Do you know whether he continued to 17 represent the Peacocks? No, sir. I left the firm in July of '87, 18 19 and I don't know if he continued or not. You don't know that he left, do you? He 20

didn't leave while you were still involved in the

21

22

matter?

137 1 That's correct. 2 When did the Peacocks first file their 0 3 Chapter 11 petition, do you know? 4 The September 25th, 1987 letter indicates 5 that they filed on September 18, 1986. 6 Finally, sir, Mr. Tucker suggested that you 7 prepare a memorandum to Mr. Selig? 8 That's correct. 9 0 So, he actually wanted you to create a documentary record of these allegations, didn't he? 10 11 He told me to prepare a memo to John 12 stating all these allegations that had been communicated to me by Pat Heritage, yes. 13 14 That would seem to be just the reverse of 15 an attempt to conceal the allegations. 16 There was no attempt to conceal any 17 allegations. 18 You have anticipated my final question. 19 Did anyone ever ask you to conceal your conversation 20 with Ms. Heritage or any of those allegations in any 21 way? 22 Not in any way, shape, form, fashion. 138 1 MR. PORTNOY: Thank you, sir. That's all I 2 have. 3 MR. NAPPI: Why don't we wrap up? We 4 appreciate your time. 5 Sherry, you wanted to make sure that your 6 December 14th letter --7 MS. BARTLEY: December 14, 1995 letter from 8 the RTC to H. Maurice Mitchell waiving the 9 attorney-client communications privilege for purposes of your investigation and allowing --10 11 MR. NAPPI: We will enter that as 12 Exhibit 4. 13 (Miller Exhibit 4 identified.) 14 MR. NAPPI: We appreciate it again. 15 MR. PORTNOY: You should be aware that 16 although your letter is enumerated Exhibit 4, it will be the only exhibit that is actually appended to the 17 18 record because the remaining exhibits, subject to the 19 committee's confidentiality rules, are not permitted to be publicly released. 20 21 MS. BARTLEY: I understand.

MR. NAPPI: Fair enough. Actually, if I

1	could ask one more question.
2	EXAMINATION
3	BY MR. NAPPI:
4	Q You had testified that status reports
5	regarding the collection litigation were prepared.
6	Do you know if those were amongst the firm files that
7	were provided to the RTC?
8	A If we did them, they were in the
9	information turned over.
10	MR. NAPPI: Okay. I appreciate that. We
11	appreciate your time. If there is a need to do a
12	follow-up deposition in person, we will let you
13	know. We can go off the record now at 12 of 6:00.
14	(Whereupon, at 5:48 p.m., the deposition
15	was concluded.)
16	
17	
18	LANCE RANDELL MILLER
19	
20	
21	
22	

I, BRENDA M. SMONSKEY, the officer before whom the foregoing deposition was taken, do hereby certify that the witness whose testimony appears in the foregoing deposition was duly sworn; that the testimony of said witness was taken in shorthand and thereafter reduced to typewriting by me or under my direction; that said deposition is a true record of the testimony given by said witness; that I am neither counsel for, related to, nor employed by any of the parties to the action in which this deposition was taken; and, further, that I am not a relative or employee of any attorney or counsel employed by the parties hereto, nor financially or otherwise interested in the outcome of this action.

Brenda Swowskey

Notary Public in and for the
District of Columbia

My Commission Expires

SEPTEMBER 14, 1996

MILLER EXHIBIT 1 WAS NOT PROVIDED IN TIME FOR PUBLICATION

MEMORANDUM

TO: JSS

FROM: LM

DATE: April 23, 1987

RE: Madison v. Peacock

Our firm represents Madison Guaranty Savings & Loan Association ("Madison") in several collection matters related to Charles Peacock, III, his children and related entities. We have been dealing primarily with Ms. Pat Heritage, a loan and collection officer with Madison.

On Tuesday, April 21, 1987, Ms. Fat Heritage informed me that she had spoken with Mr. Greg Hopkins, attorney for the Feacocks. Mr. Hopkins informed Ms. Heritage that there is a move underway to have our firm disqualified from representing Madison. The basis of the disqualification is that Jim Guy Tucker has substantial involvement with Madison and with Mr. Jim McDougal, that this creates a conflict, and therefore, our firm should be disqualified.

Mr. Hopkins went on to explain that there was substantial wrongdoing regarding the prior administration of Madison, that several people were "going to go to prison," and that our firm will be severely embarrassed when a full disclosure is made and our firm is disqualified with potential sanctions being imposed. Mr. Hopkins also stated that the matters HOUSE

regarding the Peacocks and Madison was getting too dirty and he has considered resigning his representation of the Peacocks.

Mr. Hopkins further informed Ms. Heritage that Madison should seek additional counsel not only because of Jim Guy's conflict, but also because all our firm is doing is churning the files in an effort to enhance the amount of the billings and that we have no concern for the ultimate outcome or the costs incurred by Madison.

In addition, Mr. Hopkins informed Ms. Heritage that one of the loans made by Madison to Dixie Continental Leasing, upon which Marcy Taylor has undertaken foreclosure proceedings, also involves fraudulent transactions. Mr. Hopkins stated that a portion of the loan proceeds made to Dixie Continental Leasing went to Bill Clinton's campaign and that in return for the substantial campaign contribution, Bill Clinton assured Jim McDougal that a state agency would lease space from Madison at its headquarters on Main Street in Little Rock. I fail to see any conflict with regard to our firm based upon the Dixie Continental/Bill Clinton transaction, but Mr. Hopkins seems convinced that wrongdoing existed that would be imputed to our firm.

Mr. Hopkins further stated that I should not have said what I did in front of the Bankruptcy Court at the hearing held on Wednesday, April 8, 1987. At that hearing we were successful in having the Peacock Brothers d/b/a The Peacock HOUSE

Company's Chapter 11 bankruptcy petition dismissed with prejudice.

I am of the opinion that Mr. Hopkins was severely embarrassed as a result of having the Chapter 11 dismissed with prejudice after he had made representations to his client that everything would be taken care of. Mr. Hopkins is now apparently attempting to slander our firm and making allegations that I feel are wholly unsupported by the facts in these proceedings. I am greatly offended that Mr. Hopkins has imputed that Mr. Tucker is some way involved with the fraudulent dealings and that our firm is involved in misdealings.

On April 21, 1987, immediately after discussing this matter with Ms. Pat Heritage, Tim Grooms and I discussed the matter with Mr. Tucker. Jim Guy reassured us that he has no conflict with regard to his personal transactions with Madison. In addition, Jim Guy informed us that a full disclosure of his transactions with Madison has been made to the FSLIC and that the representation of our firm has been approved by the FSLIC. Jim Guy suggested that I draft this memorandum to inform you of the statements made and to solicit your advice regarding the allegations made by Mr. Hopkins.

Please review the matters set forth above and, at your convenience, contact either Tim or myself regarding any comments or suggestions that you may have to an effective resolution of the matters set forth herein.

HOUSZ CC: Mr. Jim Guy Tucker



December 14, 1995

ALY MAX THE SECONT'S MAIL

H. Maurice Mitchell, Esq.
Mitchell, Williams, Selig, Gates & Moodyard, P.L.L.C.
120 West Capitol Ave.
Ste. 10000
Little Rock, Arkaness 72201-3525

Re: Madison Guaranty Savings and Loan Assoc.

Dear Mr. Mitchell:

We understand that the Senate Special Committee to Investigate Whitewater wishes to conduct discussions with certain members of your firm and that you have expressed the concern to Committee staff that to the extent they inquire of discussions which members of your firm had with representatives of Medison Guaranty, such discussions would be subject to the attorney-client privilege. Of course, the Resolution Trust Corporation as successor to Madison Guaranty now holds the privilege.

This is to advise you that the members of your firm may respond to the Special Committee's inquiry, even if doing so would disclose privileged attorney-client communications. The Special Committee is duly authorized to conduct an investigation involving institutions under RTC control. The RTC is committed to cooperating with the Special Committee. Moreover, it is the RTC's position that under applicable law, disclosure of such privileged communications to the Special Committee does not constitute a waiver of the privilege.

Accordingly, you are authorized to disclose privileged attornay-client communications with representative of Madison Guaranty, as well as its subsidiaries and affiliates, to the Special Committee and its staff. You should understand, however (and by copy of this letter, I am so advising the Special Committee), that the RTC does not intend by this authorization to waive the attorney-client privilege; hor are we authorizing anyone to waive the privilege. Rather, we are simply complying with requests from the Special Committee for information related to Madison Guaranty and we urge you to extend your full cooperation to the Special Committee.

DEPOSITION EXHIBIT

H

Miller

H. Maurice Mitchell, Esq. December 14, 1995 Page 2

Please feel free to contact so (202 736-8641) or Terry Arbit (202-736-8347) should you have any questions about this. Thank you for your cooperation.

VOLV CLAIM NOMES'

MARK CARRELLIAN Senior Counsel

CC: Mark J. Brenner, Esq. (12%) Terry Arbit, Esq.

DEPOSITION OF MICHAEL J. DRAKE IN RE: S. RES. 120

WEDNESDAY, JANUARY 24, 1996

U.S. SENATE,
COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS,
SPECIAL COMMITTEE TO INVESTIGATE WHITEWATER
DEVELOPMENT CORPORATION AND RELATED MATTERS,
Washington, DC.

Deposition of MICHAEL J. DRAKE, called for examination pursuant to notice of deposition, at 10:04 a.m. in Room 534 of the Dirksen Senate Office Building, before JOANNE LIVERANI, a Notary Public within and for the District of Columbia, when were present:

MICHAEL P. O'CALLAGHAN, Esq.
Majority Associate Special Counsel
LANCE COLE, Esq.
Minority Deputy Special Counsel
MITCHELL FEUER, Esq.
Minority Counsel
U.S. Senate
Committee on Banking, Housing, and Urban Affairs
534 Dirksen Building
Washington, DC 20510
On behalf of the Committee.

RICHARD A. FEINSTEIN, Esq. McKenna & Cuneo, L.L.P. 1575 Eye Street, NW Washington, DC 20005 On behalf of the Deponent.

ALSO PRESENT: JAMES F. REDFERN

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PROCEEDINGS Whereupon, MICHAEL J. DRAKE was called as a witness and, having first been duly sworn, was examined and testified as follows: **EXAMINATION** BY MR. O'CALLAGHAN: Good morning, Mr. Drake. My name is Michael O'Callaghan. I am associate counsel with the Majority on the Special Committee. We are conducting this investigation pursuant to Senate Resolution 120. This resolution establishes a Special Committee administered by the Banking Committee to conduct an investigation involving Whitewater Development Corporation, Madison Guaranty Savings & Loan Association, Capital Management Services, Incorporated, the Arkansas Development Finance Authority and other related matters. This deposition is in advance of public

This deposition is in advance of public hearings which will likely occur in February, and there is a possibility you will be asked to testify at those hearings.

Today we will ask you a series of questions. You are testifying under oath. You have just been sworn in. If you don't understand the question that either me or Minority's counsel poses to you, we will rephrase the question. Hopefully you will understand it. If you need a break, also let us know and we will go off the record and take a break.

The stenographer is preparing a record of questions and ar swers. The deposition will be treated as committee confidential until the commencement of the hearings. Prior to the hearings, you will be given a chance to review your transcript and make any corrections on an errata sheet.

You will also have a chance to get a copy of your deposition transcript prior to hearings if you are called to testify. I think in the past we have gone about three or four days before the hearings to give you a chance to have a copy of it.

You maybe represented by counsel today.

Are you represented by counsel?

A Yes.

MR. O'CALLAGHAN: Counsel, please state

Rock 72205.

7 Who is your present employer? Q 1 2 I am self-employed. Α 3 And the name of your business or firm? 0 4 Α Set the Curve. 5 0 What type of business is that? Marketing firm. 6 Α 7 Q How many employees do you have? 8 Α Six. 9 0 Could you give me a brief description of your education history since you graduated from high 10 11 school. 12 Α I attended Harding College in Searcy, Arkansas, where I received a bachelor's degree in 13 1969, and then I attended the University of Michigan, 14 15 and Wayne State University in Detroit, where I received a master's degree in 1974. 16 In what field was that master's in? 17 It was in urban studies -- urban planning 18 19 with an emphasis in municipal finances. 20 Have you done any other graduate work other 21 than that? 22 No. A 8 1 Could you give me a general description of 2 your employment history since you finished up your work at University of Michigan and Wayne State? 3 A Let's see. My first job out of the box. 4 5 right out of graduate school was with the city of 6 Westland, Michigan, one word, where I was a -- I spent about six years in municipal government. And I 7 was then recruited by Stephens, Incorporated to come 8 9 to Arkansas and work in the new business development 10 department of the investment firm. When was that? 11 Q 12 Α That would be in the late'70s. And did you go to work for Stephens? 13 Q 14 A Yes. 15 Q How long were you employed there? 16 Around five years. Α 17 What was your position there? Q I was an investment banker in the new 18 19 business development department. After that, I went 20 to Memphis to head the public financial department for Morgan Keegan & Company, and shortly after I 21 22 arrived in Memphis, I was recruited back to Little

9 1 Rock to head the fixed income public finance 2 department for Collins Locke & Lasater. 3 0 What year was that? 4 Α That was in -- maybe '82, '83, in that 5 area. 6 And who recruited you to go over there? 0 7 Α David Collins. 8 How long were you employed there for? 0 9 Around three years. Almost three years to Α 10 the date of my employment. So through 1985? 11 Q 12 Probably through -- I think through '86. Α 13 '86. 0 14 What was your official title at Collins 15 Locke & Lasater? 16 I was senior vice president and responsible 17 for fixed income and tax-exempt securities. Who did you report to when you worked 18 0 19 there? 20 Α David Collins. 21 0 Anyone else? 22 No, not while he was there. A 10 1 Okay. How long did you report to him for? 2 Well, when he left, I would say he was 3 there two years before the firm split up. And then I 4 reported to Larry Malone, who is the president of Lasater & Company. 5 6 Did the company change names at any point? 7 A Well, it went from Collins Locke & Lasater 8 to Lasater & Company. 9 When did that happen? 0 10 I will say that it was around 1985. I am A not real certain but in that area. 11 12 0 What was Larry Malone's title? 13 Α President of Lasater & Company. 14 And how about David Collins when you were 0 15 reporting to him; what was his position? 16 He was president of Collins Locke & 17 Lasater. 18 0 Who did Mr. Collins report to? 19 Well, he was a partner, so I would imagine Α 20 he reported to his other partners. 21 Q And who were they? 22 Α George Locke and Dan Lasater.

11 How about Mr. Malone? Who did he report 0 1 2 to? 3 Α He reported to Dan Lasater. At any time, did either Mr. Locke or 4 O Mr. Collins leave the firm? 5 6 Yes. When did they leave the firm? I think you 7 told me Mr. Collins left approximately 1984? 8 There was a dispute. Collins left to go to 9 form his own firm. I am not certain if -- if Locke 10 left to go with Collins or if he -- I think he stayed 11 with Lasater. But it was called Lasater & Company 12 and then Collins & Associates, so there was a 13 14 partnership split up. 15 How many people reported to you while you were -- for --16 17 Excuse me. O For convenience purposes, we will call them 18 both Lasater & Company, if that's agreeable. 19 20 Defining Collins Locke & Lasater and Lasater & Company, we will refer to it as Lasater & Company, if 21 22 that's okay. 12 1 MR. FEINSTEIN: If the question has a 2 different answer depending on which of the two 3 companies it refers to, then you should answer them 4 separately. 5 THE WITNESS: I would like to answer them 6 separately. 7 At Collins Locke & Lasater, probably 30 8 people. At Lasater & Company, maybe 80 people. It changed from time to time. As employment would rise 9 10 and fall, as more people were added, my duties were more finely defined and restricted to public finance 11 rather than trading. 12 13 BY MR. O'CALLAGHAN: Q Was there a specific time when you did more 14 15 trading versus dealing with public finance issues; 16 earlier, later? 17 I would say late in my career with Lasater, 18 I did more municipal trading. I didn't do any taxable trades in my entire career there. I was 19 20 merely a supervisor. At the end of my time with

Lasater, I was responsible for underwriting, and for

22 secondary market trading.

When would you say that that became a 1 2 majority of your work at Lasater & Company, doing the 3 underwriting and secondary market trading?

The last year I was there, I was almost exclusively responsible for that.

6 Did vou have any responsibility or role in furthering the company's efforts to incorporate the 7 bond writing contracts with the Arkansas Development 8 9 Finance Authority?

> Yes. Α

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11 12

What was your role with regard to that? 0

11 12 Generally, I was responsible for preparing 13 proposals, written proposals, and for preparing -- or 14 for submitting those proposals to Development 15 Authority staff, and for developing relationships with members on the board, the employees to the 16 17 actual Development Finance Authority board, and for 18 maintaining relationships with senior managing

19 underwriters and other of the selling group member

professionals or the other co-managers. 20

21 At other firms? 0

22 A Yes.

14

With regard to developing relationships with members of the ADFA, A-D-F-A, which is an acronym I will use for the Arkansas Development Finance Authority, if that's acceptable, how did you go about that?

Well, it was pretty straightforward. I would introduce myself to the board members when I came to the firm, and tell them that I was responsible for the specific transactions that the firm was involved with, and I wanted them to know who I was, and that I was no longer with Stephens, I was now at Lasater & Company, and to do the best I could

13 to win business for our firm. 14 When did Collins Locke & Lasater first 15 become eligible to participate in ADFA bond

16 underwritings? When I -- when I arrived on the scene, ADFA 17 had not been created yet. It was Arkansas Housing 18 Development Authority. AHDA is the acronym. The 19 20 firm was already a co-manager of the single-family 21 bond issue aspect of the AHDA. There were two 22 elements, one was multifamily and one was single

1 family.

Are you familiar with what I am talking about? Okay.

As I recall, we -- the firm was not a member of the multifamily selling effort, but was a member of the single family selling effort when I arrived.

Shortly after I arrived, the -- as I recall, there was legislation passed in the Arkansas legislature and signed in law that created ADFA, which was the successor to the Housing Authority, and we were, as I remember, we were grandfathered in as co-managers into that ADFA situation.

Q Had there been a time when Collins Locke & Lasater hadn't been eligible to participate in AHDA bond underwritings, do you know?

A I don't know. It seems like there was a time -- we had to prepare proposals, and submit proposals to the staff, but it -- there may have been net worth or net capital or some of those issues. I am not really -- I don't remember exactly if there were or not. There could have been.

Q When you first joined the firm, Collins Locke & Lasater, was the firm experiencing any financial difficulties?

A Yes.

Q As best you can, describe the financial difficulties that you are aware of.

A The ones that I became aware of were net capital problems. For purposes of calculating net capital, there are certain assets which cannot be included in the calculation. And the -- let me say the administrative end of the firm was not real clear on NASD rules, and it became clear to me that there was a problem with that. And I suggested certain restrictions in the firm that would enable the firm to calculate net capital more accurately, and comply with what I thought were the definition of net capital by the NASD.

Q How did that first come to your attention?

A The chief financial officer of the firm, I think, brought to it my attention.

Q Who was that at the time?

A I can't remember his name, but I know what

he looks like. I don't remember his name. Seems 1 2 like it was Gary something. I don't remember 3 exactly. 4 Was it Gary Chambers? 0 5

Α Gary Chambers, exactly.

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How did he first approach you about the net capital or potential net capital problems?

We were just talking one day in his office and he mentioned it to me, that the -- at the time, there were some assets like the boat that David Collins had purchased that he was using to calculate net capital which was not an asset that was eligible. And I said you know we are going to have to do something about this. We are going to have to add either some more cash or some -- to improve our liquidity or some more securities that are eligible

18 And then we considered -- I made a recommendation that we form a holding company, and 19 create different subsidiaries to hold title to these 20 21 assets that were not appropriate for inclusion in the

calculation of net capital. As I recall, those 22

for calculation, and he agreed.

18

recommendations were accepted and that helped ease the -- part of the problem.

Had the NASD informed the firm that they had concerns about net capital of the firm?

I recall something like that happening, but I don't recall actually what it was. But I do recall the NASD informing the firm that they were out of compliance when it was Collins Locke & Lasater. I don't recall that occurring when it was Lasater.

You don't recall specifically what their assertion was of how they were out of compliance --MR. FEINSTEIN: Whose assertion are you

12 13 referring to?

14 MR. O'CALLAGHAN: NASD.

THE WITNESS: It had to do with net capital. I don't know. I don't remember exactly what it was regarding. It could have been regarding these assets. That's where my concern was.

BY MR. O'CALLAGHAN:

20 Other than the boat, were there any other assets that you identified that shouldn't have been 21 22 included in net capital calculation that were being

		19
1	included?	
2	A I don't remember if the airplane was	
3	involved in that, was in that or not. David had	
4	purchased a jet, and I don't it seems like that	
5	may have been in there, but I don't recall exactly.	
6	Q Did there come a time when the company	
7	satisfied the NASD with regard to its net capital	
8	A Yes.	
9	Q Do you recall when that occurred?	
10	A No. I don't.	
11	Q Was this after the creation of the holding	
12	companies that you recommended?	
13	A Yes.	
14	Q What was the process for submitting	
15	proposals to ADFA?	
16	A As I recall, typically, there would be a	
17	RFP, a request for proposals, that would be sent by	
18	the staff to all the investment firms in Arkansas.	
19	Q So that was a blanket request, as far as	
20	you know?	
21	A As far as I know, yes.	
22	That met the criteria for being involved	
	'd ADEA ATTOA	20
1	with ADFA, or excuse me, AHDA.	
2	The staff at the time, as I recall, had	
3	I'm reasonably sure that the staff would also run ads	
4	in a trade journal called the Bond Buyer, soliciting	
5	national firms' interest.	
6 7	Q When you say "the staff," the staff of AHDA?	
8		
9	A Yes, the staff of AHDA. Q Was the process the same when ADFA came	
10	into being?	
11	A As far as I recall, yes, although I don't	
12	recall as many RFPs for co-managers at the local	
13	level at ADFA as I do during AHDA's time. ADFA wa	96
14	created to be a more prolific issuer of securities	13
15	with broader powers than AHDA, so the more	
16	distribution that they had, the better off they would	
17	be.	
18	Q So they had more or less RFPs that were	
19	sent out to co-managers?	
20	A I recall more for AHDA than I do for ADFA,	
21	even though ADFA was a more prolific issuer.	

How long were you at Collins Locke &

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21
    Lasater while AHDA was in existence?
 1
2
            Well, for as long as I was there. And I
3
    would say I was there for two years. The first two
4
    years I was there. I recall the ADFA legislation was
5
    passed while I was at CL&L.
6
            MR. FEINSTEIN: For the record, can we get
    the identity of the person who just joined us.
7
8
            MR. COLE: Let's go off the record for a
9
    moment.
10
            (Discussion off the record.)
11
            MR. O'CALLAGHAN: Let's go back on the
12
    record. Lance Cole has just joined us from the
13
    Minority staff.
14
            BY MR. O'CALLAGHAN:
             After the RFPs were sent out by ADFA, what
15
    would be the first step you would take in replying to
16
17
    these?
18
             Prepare a reply.
        Α
19
        0
             What form would that normally take?
20
            It was in writing.
        Α
21
            Would that be in the form of a formal
        0
22
    proposal, written proposal?
                                                             22
 1
        Α
             Typically it would be, yes.
 2
             During the time that you were at Collins
 3
    Locke & Lasater and Lasater & Company, would these
    typically be independent proposals prepared by the
 4
 5
    firm or would they be in conjunction with other
 6
    firms?
 7
        Α
             Roth
 8
        0
             Who at the firm assisted you in preparing
 9
    the proposals?
10
             Well, it would depend on what elements the
11
     proposal called for. If it is a financial statement,
     Chambers; if it was -- if it was distribution, it
12
13
     would be the trading desk; if it was -- I was the
14
     idea end in terms of developing suggestions or
15
     proposals on different structures of financings, and
     I was typically responsible for pulling all the
16
     different department contributions together and
17
18
     submitting the proposal, which we generally submitted
19
     in person to the staff.
20
             In what form would that presentation be
        0
21
     made?
```

Α

It would be in written form.

```
23
 1
        0
             That would be to the staff or to the board
2
    members?
3
        Α
             We would go to the staff for evaluation.
4
    and as I remember, as I recall, the staff would make
5
    a proposal to the full board or a committee of the
6
    board, who would evaluate the qualifications based
7
    upon the staff's ranking. And the board would then
8
    vote on who they wanted to include in a specific
9
    underwriting or a specific transaction.
10
            Did you ever make direct pitches to the
11
    board members?
12
            You mean official pitches?
13
            MR. FEINSTEIN: Maybe we should get some
14
    clarification of the definition of "pitch," so we are
15
    all on the same page.
16
            MR. O'CALLAGHAN: All right, sir.
17
            THE WITNESS: You mean going to a board
18
    member?
19
            BY MR. O'CALLAGHAN:
20
            In connection with your proposals, did you
21
    ever go directly to board members --
22
            Yes.
                                                             24
 1
        0
             -- to recommend that they accept your
2
    proposals?
3
        A
             You bet I did.
4
        0
             Was there any particular board members you
 5
    had more or less contact with?
6
        Α
             Yes.
 7
        0
             And who would you say you had more contact
 8
    with?
9
        Α
             That I personally had more contact with?
10
        0
             Correct.
11
             James Brannon, Margaret Davenport, Bill
12
    Mathis, George -- George somebody.
13
        O
             Was it a George Wright?
14
        A
             No. George -- I don't remember his last
15
    name.
16
        O
             If you --
17
        A
             I just saw him the other day in the
18
    airport, but I don't remember his last name.
             If you recall it during the course of the
19
20
    deposition, feel free to let me know.
21
             I will.
        Α
22
        Q
             Anyone else?
```

Howard Weichern. I was familiar with all 1 2 of the members and visited with them privately in 3 their offices many, many times, so it would be safe 4 to say that all the ADFA board members were people I 5 was acquainted with in one fashion or another. I 6 mean. I made it my business to know that. 7 Were other people at the firm familiar with 8 the board members? 9 Α Yes Who else at the firm was familiar with 10 0 11 them? 12 Tom Carter, who was a trader, municipal 13 trader and had all of the underwriting on the 14 national level, was familiar with many of the 15 members. Danny English was a gentleman who was a salesman, who did a fair amount of work with Margaret 16 Davenport, who was an executive at the Twin City 17 18 Bank. I can't think of any others right now, but if 19 I do, I'll --20 Did Mr. Lasater have any contact with the 0 21 board members? 22 Not to my knowledge. He could have, but 26 1 not to my knowledge. 2 Did anyone at Lasater & Company make any 3 recommendations to the governor's office as to who 4 should be on the ADFA board? 5 Α Yes 6 O Who did that? 7 Dan Lasater did, and Dan did at my suggestion and at the suggestion of others. He sure 8 9 did. 10 So you had a role in helping formulate recommendations for the ADFA board? 11 Yes, I did. 12 13 What type of consultation did you have with 14 Mr. Lasater with regard to recommendations for the 15 board? 16 A Well, if there was a vacancy on the board, I would routinely inform Dan of people that I thought 17 would be good board members, and Dan would then 18 19 convey that to then-Governor Clinton. I might also 20 add that we did the same things when I was at 21 Stephens. It is very routine.

Who else consulted Mr. Lasater with regard

27 to recommendations for the ADFA board? You said 1 there were other people. 3 Well, I don't know specifically who he 4 relied upon. I do know that he told me he would ask 5 others for their -- for a comment on the person that I had suggested as well as suggestions for other 6 folks. So it -- you have to ask Dan that question. 7 O You mentioned some people earlier that you 8 9 had contact with on the board. One of them was James 10 Brannon. 11 Did Mr. Lasater make a recommendation to 12 Governor Clinton to appoint Mr. Brannon to the ADFA 13 board? 14 I don't know. 15 0 How about with regard to Margaret 16 Davenport? 17 I don't know Α 18 0 And Bill Mathis? 19 Α Yes. 20 Q How do you know that? 21 A Dan told me he did. 22 0 How about Howard Weichern? 28 I don't know. 1 Α 2 0 Did you recommend to Mr. Lasater that he recommend these people to the board, any of these 3 4 people to the board just listed? 5 Bill Mathis. 6 Any others? 0 7 Α No Do you know if Mr. Lasater had any personal 8 0 9 relationships with any members of the ADFA board? Do you want to define "personal 10 11 relationships"? 12 MR. FEINSTEIN: Thank you. I was about to 13 ask him to do that. 14 THE WITNESS: I mean --15 BY MR. O'CALLAGHAN: O Whether he associated with them in a social 16 17 context, outside of business dealings with the firm. Well, I guess I would say he did, with 18 board members and lots of other people. 19 And --20 0 21 That's a real -- if we go to a party, yes,

and they were there, they would know who Dan is, so

```
29
    let me answer it that way.
 1
 2
             Okay.
        0
 3
             Or a fundraiser or whatever the occasion
        A
 4
    was.
 5
             Do you know if he specifically had any --
6
    more than just running into people at fundraisers or
 7
    random parties, whether he had specific friendships
 8
    with any members of the board?
9
            MR. FEINSTEIN: I am going to object on the
10
    grounds that that's vague.
            But if you understand it, try to answer
11
12
    it.
13
            THE WITNESS: I know we did business with
    Twin City Bank, so I knew Dan knew Margaret on a
14
15
    first-name basis. We did -- that's about the only
    one that I can recall that I would say was more than
16
    just an acquaintance. See, there was a business
17
18
    relationship there at the bank, as well as the
    relationship we had with Margaret as a member of the
19
20
    board.
            BY MR. O'CALLAGHAN:
21
             Did Lasater & Company have any business
22
                                                             30
 1
    dealings with any of the businesses associated with
 2
    the board members?
             Not that I know of. Not that I recall. I
 3
 4
    don't think so.
 5
             You testified earlier that on occasion you
 6
    meet with board members privately to discuss
 7
    proposals that the firm was making.
            What do you recall about the nature of
 8
    those discussions? Was it at someone's office, just
 9
    casual conversation? Did you come with
10
    documentation? Would you describe --
11
12
              I would typically take a copy of whatever
     proposal that I had submitted to the staff and
13
     attempt to meet with the individual members and
14
     explain our position, what we were hoping to
15
     accomplish, why I thought it was important for them
16
17
     to select us, answer any questions I could, make
     myself available to them, to let them know we thought
18
     the business was important enough to us to spend the
19
     time to drive to southern Arkansas in a two-lane road
20
```

in the middle of the winter to talk to a board

21

22

member.

Q The best you can approximate, during the time that Collins Locke & Lasater and Lasater & Company, how often did the firm serve as a lead underwriter on any of the AHDA or bond offerings?

A A lead underwriter?

O Yes.

1 2

A I don't recall us ever being a lead

Q So as far as you know, the firm mainly served as what's called a co-underwriter; is that correct?

A Yes

Q What type of services did the company provide as a co-underwriter that would be different than services provided by a lead underwriter?

A Well, a lead underwriter typically is responsible for structuring the transaction, working closely with bond counsel to develop documents, trust indentures, depending on the type of financing and other documentation that provide for the -- what I call the meat and potatoes of the deal.

They would also be responsible for

distributing and having an official statement prepared, evaluating its accuracy for disclosure purposes, alerting the market to the coming issue, gosh, working on a more frequent basis with staff to inform them of important things like interest rates, where the markets is headed, expectations of when it might be timely to issue the securities.

Q When you say "staff," are you referring to the Authority staff?

A Yes. And typically that role was fulfilled by a New York firm. Because of A, the capital, B, the distribution capabilities of a New York firm vis a vis someone in Arkansas. Typically the firms that served as co-managers were one-office firms, Stephens at the time didn't have branches, so that the responsibilities of the senior manager are substantially different than those of the co-manager.

Q As co-manager, what did Lasater & Company, or Collins Locke & Lasater, what are the types of services they did provide?

A We did two things, two distinct roles. One was to sell securities during the offering period,

1 and the other was to assist the senior manager in 2 fulfilling the specific roles, like structuring 3 ideas, doing legwork in Arkansas when it was 4 impossible for a member of the senior management's 5 public finance department to come to Arkansas for 6 either submission of the documents or working with 7 attorneys or things like that. So it was someone as 8 support and the other was a sales.

Okay. And earlier you talked about submitting proposals.

Was the bulk of the work on proposals done by Lasater & Company, or would more of that be done by the lead underwriters and Lasater just presented?

A No.

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As I recall, there would -- there was -there were two evaluations that occurred. One was for the selection of the senior manager, the managing underwriter, and the other was for the selection of the co-managers, as I recall.

Now, there were times when -- that we would submit proposals with other firms, to -- and here is 22 a package, instead of going through the dog and pony

34

1 show where -- we used to call them beauty contests. 2 Constantly we would make alliances with different 3 firms that we thought had good ideas or strengths 4 that others didn't have.

So, it is difficult to say as a yes or no that there were more with ADFA than there were with AHDA, because there were different situations. They called for different responses.

9 With regard to actual bid proposals, were 10 those prepared by the lead underwriters or did you all have input into that as well? 11

Bid proposals?

O The pricings of the deals?

14 Let me -- before I answer that, let me 15 explain how I recall that working. Then you can 16 understand my answer.

When ADFA selected a team to sell securities or to underwrite securities, there were expectations of where interest rates might be at the time. These are for negotiated transactions. These are not competitive bid transactions. Okay. I want

22 to differentiate between the two. If, for example, PaineWebber or a national firm was selected along with a group of local underwriters to offer \$100 million in securities, it would take a period of time to structure the transaction, to prepare the documentation, to distribute the official statements, get the bond ready, all that stuff. It would be virtually impossible to predict where the markets would be six months away, although a lot of people tried to do that.

the bonds is, the lead underwriter would call all the managers, the co-managers, and submit a pricing sheet. These are your price ideas, these are what the yields will be. We would make comments, we like it, or we don't like it, or we think we can sell these securities at this rate or -- or -- but the managing underwriter's responsibility was to make the call, call ADFA, talk to someone on the staff and say these are our price ideas, we are ready to go to market and then a decision would be made either to sell the securities, to go into the market then or

What we would do when it was time to offer

wait.

Repricing would also be the call of the senior manager. That would occur directly to the --typically it occurs directly with the issuer. Sometimes the staff would be given a responsibility by the board to make that call. Other times the board would want to make that decision.

So it varied. Ones the securities were offered and the deal was done, the senior manager would come to Arkansas, a representative with the bond purchase agreement, and would tell the board we sold these securities, here is the yield, da, da, da, da, da and we would sign the bond purchase agreements and deliver the bonds.

So we were there, representatives of all the underwriters were there, but the responsibility for that call typically fell with the senior manager, which is why the senior manager made more money than the co-managers.

Q Was there a specific criteria that the ADFA board used in choosing co-underwriters?

A I don't remember. Could be, probably was,

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I don't remember.
1
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2 O Do you recall what -- the main highlights 3 you presented to the board?

A Yes.

O What were those typically?

6 We would talk about -- well, staff, who was 7 there, who could -- what was our experience, what 8 were the individuals in the firm's experience in this 9 type of transaction, A. B. what was our distribution 10 capability. C, what was the volume in securities

11 that we were selling, that were similar to the

12 offering.

4

5

22

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16

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18

19

13 And then I would typically put in things 14 like we contribute X dollars to the state of Arkansas 15 in employment, taxes, et cetera et cetera, it is 16 important to support local firms, and just whatever I 17 could think of that would convince a board member 18 that it was important to keep our firm or to add our firm to a deal if we were going in. Newspaper 19 20 articles, you know, whatever. Whatever I could dig 21 up, we would put in.

Did you have any contact with anyone in the

38

1 governor's office with regard to lobbying to get 2 underwriting contracts? 3

Directly in his office?

4 O Or anyone --

5 Α Staff.

6 0 Staff, correct?

7 Well, Bob Nash was a director of the 8 Development Finance -- president of the Development

Finance Authority and I had known Bob for a long 9

10 time, in the political context, in working on

11 campaigns. And I felt no hesitation of picking up

12 the phone and calling Bob about an issue.

13 What type of issues would you discuss with 14 Mr. Nash?

Appointments, policy, directions that we thought the board should go in, legislation affecting the board, just a variety of things. Bob and I had a personal relationship as well as a professional relationship.

20 O Did you have discussions with him about 21 particular bond offerings that the company was

22 interested in securing contracts for?

39 Α I don't remember. 1 2 Did you have discussions with anyone on the 0 3 governor's staff with regard to specific contracts 4 that the company's interested in securing? 5 I don't recall ever doing that. A Did anyone else at the firm have a 6 0 7 conversation --8 Α I have no idea. 9 Let me finish. 0 10 Α Excuse me. 11 0 Let me finish the question. 12 A I am. 13 Did anyone else at Lasater & Company have 14 conversations with anyone in the governor's office with regard to a specific bond underwriting 15 16 contracts --17 Α Not to my knowledge. 18 Other than Bob Nash, did you have contact with anyone else at the governor's office? 19 20 I had contact with Betsey Wright, chief of 21 staff. 22 What was the nature of your contact with 0 40 1 Ms. Wright? 2 Almost identical to what I discussed with 3 Nash. It wouldn't vary at all. And I would talk to 4 her when I couldn't talk to Nash. When I couldn't 5 talk to her. I would talk to Nash. It depends who was available to take my call, who would return it. 6 7 Did you ever have any conversations with 8 the governor with regard to ADFA issues? 9 With regard to what? Α 10 ADFA issues. 0 11 A Bond issues? 0 12 Right. MR. FEINSTEIN: A specific bond issue or --13 14 BY MR. O'CALLAGHAN: 15 Any bond issue. 0 16 No specific bond issue. We did talk to Governor Clinton at a meeting at one of the hotels in 17 18 Little Rock. We presented ideas to him on where we thought ADFA policy should go, what direction we 19

20

21 22 thought it should take.

We were specific in our concern about

ADFA's powers, and some other things. That's the

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41
1
    only time I specifically recall talking to Governor
2
    Clinton about ADFA.
3
            When you said you spoke to him with regard
    to ADFA powers, what are you referring to?
4
             Well, the authority that ADFA had. ADFA
5
6
    derived its authority from the legislation which
7
    created it. And there was a fair amount of
    discussion over that legislation and what types of
8
    issuing powers ADFA could have, and there was some --
9
10
    there was a fair amount of discussion with regard to
11
    financing education, there was a fair amount of
12
    discussion and controversy regarding creating the
    agency in the first place, and we wanted to let him
13
14
    know what our thoughts were.
15
            When did that occur?
16
             It was during the time that it was
17
    Lasater & Company. It was not Collins Locke &
18
    Lasater.
19
             Did that take place at the Legacy Hotel?
        0
20
        Α
             It did.
21
        0
             How did that meeting come about?
            MR. FEINSTEIN: Do you mean who arranged
22
                                                            42
 1
    it?
 2
            MR. O'CALLAGHAN: Correct.
 3
            MR. FEINSTEIN: Okay.
 4
            THE WITNESS: I would imagine -- I don't
 5
    have specific knowledge of who arranged it. I would
 6
    imagine that Dan did. I don't recall who did it, but
    I would imagine that Dan did it or I may have taken
 7
 8
    it up with Nash, and asked him for the opportunity,
    and Nash may have -- I don't remember exactly how it
 9
    happened, how it occurred, but I do know it
10
11
    occurred.
12
            BY MR. O'CALLAGHAN:
13
        Q Did any other firms participate at the
14
    meeting?
             I believe E.F. Hutton was present. I
15
    believe it was a joint Hutton/Lasater preparation. I
16
    don't recall anyone else being there, but there could
17
18
    have been.
19
             Do you recall who from E.F. Hutton attended
        O
20
    the meeting?
             I will say it was Steve Claiborne. I am
21
```

22 almost certain Steve there was. I don't recall

			43
1	anyone	else being there.	.5
2	Q How about from Lasater & Company? Who		
3	attended		
4	Α	There were a lot of people there.	
5	Q	How many people would you say?	
6	Α	I am going to say there were eight. Maybe	
7	more.		
8	Q	Was Mr. Lasater there?	
9	A	Yes.	
10	Q	Were you there?	
11	A	Yes.	
12 13	Q	Was Patsy Thompson there?	
14	A	Yes, George Locke was there. I don't per anyone else. Rick Knox could have been	
15		e was the president of the company at the	
16	time.	e was the president of the company at the	
17	Q	How about Mr. English? Was he there?	
18	Ā	No.	
19	Q	And Tom Carter?	
20	À	I don't think Tom was employed at the firm	
21	at that time. I think he left. I am not certain		
22	about th	nat.	

			44
1	Q	Do you recall anyone else?	44
1 2	Q A	Do you recall anyone else? No, I don't recall anyone else.	44
1 2 3	Q A Q	Do you recall anyone else? No, I don't recall anyone else. Were there representatives there from the	44
1 2 3 4	Q A Q governo	Do you recall anyone else? No, I don't recall anyone else. Were there representatives there from the or's office?	44
1 2 3 4 5	Q A Q governo	Do you recall anyone else? No, I don't recall anyone else. Were there representatives there from the or's office? Bob Nash was there and the governor. And I	44
1 2 3 4 5 6	Q A Q governo A think th	Do you recall anyone else? No, I don't recall anyone else. Were there representatives there from the or's office? Bob Nash was there and the governor. And I hat was it.	44
1 2 3 4 5 6 7	Q A Q governo A think th	Do you recall anyone else? No, I don't recall anyone else. Were there representatives there from the or's office? Bob Nash was there and the governor. And I hat was it. Do you know if other firms gave similar	44
1 2 3 4 5 6 7 8	Q A Q governo A think th Q	Do you recall anyone else? No, I don't recall anyone else. Were there representatives there from the or's office? Bob Nash was there and the governor. And I hat was it. Do you know if other firms gave similar ations to the governor, the governor's office?	44
1 2 3 4 5 6 7 8 9	Q A Q governo A think th Q presenta A	Do you recall anyone else? No, I don't recall anyone else. Were there representatives there from the or's office? Bob Nash was there and the governor. And I hat was it. Do you know if other firms gave similar ations to the governor, the governor's office? Yes, other firms did.	44
1 2 3 4 5 6 7 8	Q A Q governo A think th Q	Do you recall anyone else? No, I don't recall anyone else. Were there representatives there from the or's office? Bob Nash was there and the governor. And I hat was it. Do you know if other firms gave similar ations to the governor, the governor's office? Yes, other firms did. Who else did that, do you know?	44
1 2 3 4 5 6 7 8 9 10	Q A Q governo A think th Q presenta A Q A	Do you recall anyone else? No, I don't recall anyone else. Were there representatives there from the or's office? Bob Nash was there and the governor. And I hat was it. Do you know if other firms gave similar ations to the governor, the governor's office? Yes, other firms did. Who else did that, do you know? PaineWebber did that, Goldman Sachs did	44
1 2 3 4 5 6 7 8 9 10	Q A Q governo A think th Q presenta A Q A	Do you recall anyone else? No, I don't recall anyone else. Were there representatives there from the or's office? Bob Nash was there and the governor. And I hat was it. Do you know if other firms gave similar ations to the governor, the governor's office? Yes, other firms did. Who else did that, do you know? Paine Webber did that, Goldman Sachs did Boston	44
1 2 3 4 5 6 7 8 9 10 11 12	Q A Q governo A think th Q presenta A Q A	Do you recall anyone else? No, I don't recall anyone else. Were there representatives there from the or's office? Bob Nash was there and the governor. And I hat was it. Do you know if other firms gave similar ations to the governor, the governor's office? Yes, other firms did. Who else did that, do you know? PaineWebber did that, Goldman Sachs did	44
1 2 3 4 5 6 7 8 9 10 11 12 13	Q A Q governo A think th Q presenta A Q A that, a I	Do you recall anyone else? No, I don't recall anyone else. Were there representatives there from the or's office? Bob Nash was there and the governor. And I hat was it. Do you know if other firms gave similar ations to the governor, the governor's office? Yes, other firms did. Who else did that, do you know? PaineWebber did that, Goldman Sachs did Boston MR. FEUER: First Boston.	44
1 2 3 4 5 6 7 8 9 10 11 12 13 14	Q A Q governo A think th Q presenta A Q A that, a I	Do you recall anyone else? No, I don't recall anyone else. Were there representatives there from the or's office? Bob Nash was there and the governor. And I hat was it. Do you know if other firms gave similar ations to the governor, the governor's office? Yes, other firms did. Who else did that, do you know? PaineWebber did that, Goldman Sachs did Boston MR. FEUER: First Boston. THE WITNESS: First Boston did that.	44
1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17	Q A Q governo A think th Q presenta A Q A that, a I	Do you recall anyone else? No, I don't recall anyone else. Were there representatives there from the or's office? Bob Nash was there and the governor. And I hat was it. Do you know if other firms gave similar ations to the governor, the governor's office? Yes, other firms did. Who else did that, do you know? PaineWebber did that, Goldman Sachs did Boston MR. FEUER: First Boston. THE WITNESS: First Boston did that. Lynch did that. It was very, very common.	44
1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18	Q A Q governor A think th Q presenta A Q A that, a I	Do you recall anyone else? No, I don't recall anyone else. Were there representatives there from the or's office? Bob Nash was there and the governor. And I hat was it. Do you know if other firms gave similar ations to the governor, the governor's office? Yes, other firms did. Who else did that, do you know? PaineWebber did that, Goldman Sachs did Boston MR. FEUER: First Boston. THE WITNESS: First Boston did that. Lynch did that. It was very, very common. vernor was very open to new ideas. BY MR. O'CALLAGHAN: Was this all in relatively the same time	44
1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19	Q A Q governor A think th Q presenta A Q A that, a I Merrill The gov	Do you recall anyone else? No, I don't recall anyone else. Were there representatives there from the or's office? Bob Nash was there and the governor. And I hat was it. Do you know if other firms gave similar ations to the governor, the governor's office? Yes, other firms did. Who else did that, do you know? PaineWebber did that, Goldman Sachs did Boston MR. FEUER: First Boston. THE WITNESS: First Boston did that. Lynch did that. It was very, very common. Vernor was very open to new ideas. BY MR. O'CALLAGHAN: Was this all in relatively the same time or	44
1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20	Q A Q governor A think th Q presents A Q A that, a I Merrill The gov	Do you recall anyone else? No, I don't recall anyone else. Were there representatives there from the or's office? Bob Nash was there and the governor. And I hat was it. Do you know if other firms gave similar ations to the governor, the governor's office? Yes, other firms did. Who else did that, do you know? PaineWebber did that, Goldman Sachs did Boston MR. FEUER: First Boston. THE WITNESS: First Boston did that. Lynch did that. It was very, very common. Vernor was very open to new ideas. BY MR. O'CALLAGHAN: Was this all in relatively the same time or No, it was over a period of time.	44
1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19	Q A Q governor A think th Q presenta A Q A that, a I Merrill The gov	Do you recall anyone else? No, I don't recall anyone else. Were there representatives there from the or's office? Bob Nash was there and the governor. And I hat was it. Do you know if other firms gave similar ations to the governor, the governor's office? Yes, other firms did. Who else did that, do you know? PaineWebber did that, Goldman Sachs did Boston MR. FEUER: First Boston. THE WITNESS: First Boston did that. Lynch did that. It was very, very common. Vernor was very open to new ideas. BY MR. O'CALLAGHAN: Was this all in relatively the same time or	44

1 Governor Clinton was searching for the best set of 2 ideas to include in the legislation, so there was a solicitation from New York, as well as -- local firms 3 4 said that we want to have our input, too. There was a -- there was a study stream of people from Wall 5 Street coming to make their ideas known, many by 6 invitation, many because they called and said we have 7 8 some ideas. 9 And I would tell you that we -- I called many of my colleagues in New York, and suggested that 10 11 they bring their ideas. I recall talking to Merrill 12 Lynch and Goldman Sachs because they were so prolific 13 in underwriting securities, they had more experience in developing ideas like that, so it was an important 14 15 time. How long did, if you recall, that meeting 16 0 17 last? 18 Α Our meeting at the Legacy? 19 0 Yes. 20 Α Maybe 90 minutes. I would say no longer 21 than 90 minutes. 22 I remember George Locke falling asleep, 46 1 vividly. It was a pretty good meeting. We had 2 orchestrated it, and it -- it was mostly 3 presentations and very little Q&A. It was mostly 4 boom and boom, out, as I remember it. 5 O Were there any recommendations presented at that meeting or presentation with regard to specific 6 7 bond underwritings --8 I don't remember if there were. There 9 could have been. MR. O'CALLAGHAN: I would like to take a 10 11 quick five-minute break, if I might. Off the 12 record. 13 (Discussion off the record.) BY MR. O'CALLAGHAN: 14 15 Mr. Drake, I am trying to get a handle on -- excuse me if I am being obtuse -- on 16 17 specifically how the co-underwriters were able to 18 differentiate themselves with the services they were 19 providing with regard to the bond underwritings, and the type of work you did to get your fees and how you 20 were able to distinguish yourselves from the other 21

firms.

22

A Okay. Let me give you an example. This occurred in Arkansas. When the Arkansas Housing Development Authority was in its waning months, E.F. Hutton had been appointed as the senior managing underwriter for a specific bond issue. Hutton sold zero coupon bonds as a feature of its bond issue. Interest rates started going up, and the debt service on those zero coupons started going up.

1 2

The rate on the securities, there was also a floater in the transaction, which means it varied with interest rates, it was tied to a rate. That rate started going up because the market interest rate started going up for similar issues. What the Authority did with that money that they received from that bond issue is loaned it to banks in Arkansas, who would then make low income loans, or low interest loans to low income families for new housing.

Well, the interest rate on the bonds got higher than conventional rates, so banks were sitting there with this money, paying points back to the state, and they were losing their shirt. And Hutton couldn't come up with a way to fix it. I mean, what

do you do when you've shorted the market and you know, the security you shorted is now a hundred times higher than the price you sold it at?

There was a real concern that there might be a default. And that there would be a calamitous event. A local underwriter named Dabbs Sullivan & Company, which at the time was probably no more than a dozen salespeople with very limited capital, came up with an idea on how to restructure this transaction with the assistance of PaineWebber.

When Hutton turned its back on the Authority, Doobie Sullivan, who was the principal of this firm, walked in the door and said we have a solution that will bail you out. It will cost you -- I don't remember exactly what it was -- several hundred thousand dollars, but it is the remedy that we are looking for to stop the red ink.

PaineWebber and Doobie were appointed as co-managers, as I remember. Now they may or may not have been on equal standing, but they were co-managers and they refunded that bond issue and saved the state an enormous amount of money and a

black eye. In that case, Doobie's firm was rewarded because they solved the problem.

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With regard to how we differentiated ourselves from other firms. I think it is really important to understand that Governor Clinton's position on local bond underwriters was that they are all eligible if they meet the financial criteria that ADFA or AHDA sets. His philosophy was to make the

pie bigger, not the pieces bigger. A great example right now is Alice Walton's

firm, Llama Securities, up in Favetteville. Llama was a nothing firm when it asked for inclusion in the selling group, but because it was an Arkansas-based firm that employed Arkansas people, that generated tax revenue and generated income they were included.

16 So it was -- I mean, we competed real hard 17 for business on specific issues, when there was a RFP 18 for specific issues. But as a general policy,

19

everybody was invited to participate. I mean, there 20 were some firms who didn't because they didn't have

21 the distribution capabilities, or they had NASD

22 sanctions against them, one of them is no longer in

50

1 business now, it was -- I will think of it in a

2 minute, but we were required to submit our

3 qualifications, but I don't think that there was --

4 there was that much difference between a T.J. Raney

5 and a Stephens and a Lasater & Company and a Crews &

Associates and Llama Company. It was -- we were 6

7 Arkansans and you were in the deal.

So it is difficult to answer your question specifically, what we did was we answered the questions that ADFA or AHDA asked of us, and then we lobbied like mad to get a bigger piece of the bigger pie, but the pie was constantly being made bigger.

Does that help at all?

Yes. You understand my confusion a little 14 15 bit.

> Α Yes.

Did any of the board members ever relay to you how they sorted out what Arkansas firms to include in the bond writings?

No, no. I didn't really care what they did with anybody else. As long as I was in it, I didn't care.

Q What were the financial criteria that they required, for --

A I don't remember. I would say that you could find out by looking at the proposals.

Q Any net capital requirements that you recall?

A I don't recall any.

4 5

MR. COLE: Can I ask one clarifying question before you leave this area to follow up on what Mr. Drake said?

MR. O'CALLAGHAN: Sure.

MR. COLE: If you know, Mr. Drake, from your experience in the industry, was the process that you just described for Arkansas, was there a comparable process in other states in terms of preference for local firms?

THE WITNESS: Absolutely.

MR. COLE: So the situation in Arkansas was not essentially different in that regard from what took place in other states?

THE WITNESS: No. And there is an example

I can give you, when I would -- part of my

responsibilities at Stephens and at Lasater and
Collins Locke & Lasater was to find business, was to
find business opportunities. If I went into Texas to
pursue a financing, all the Texas firms that were
competing for state business were in the selling
group. I mean, it is just part of it.
In Michigan, it is the same way, when I

pursued deals up there. Typically you find a senior manager who has offices all over the U.S. to facilitate distribution. Clearly we couldn't sell \$100 million worth of bonds in Arkansas. There is not enough capital to buy those kind of securities, but you typically find a national firm as a senior manager and you find local firms as the co-managers.

Stevens, I solicited and won the business as financial adviser to the city of New Orleans when Dutch Moreau was mayor, and we came up with an idea on how to finance the new convention center that they used eventually for the World's Fair.

There is another example. When I was at

Both local firms, Sharoff & Jones -- and the other firm I don't remember -- we were told by

the board these firms are going to be in because they are local firms and they support us.

There is another reason. After bonds are sold, if there is -- let's say there happens to be a profit in the bond after a year or maybe two years, and an investor wants to sell that bond, it's got to sell it to a broker. All the Arkansas firms maintain the secondary market in Arkansas securities, which meant if you wanted to sell a security that had AHDA on it or ADFA on it and we were an underwriter, we would buy it and we would maintain a market in that security.

12 security.
13 Well, secondary market trading is crucial
14 to issuers of securities, prolific issuers of
15 securities and if you don't have a secondary market,
16 you can't attract people to buy the next issue you
17 are going to sell. So Michael, there are a variety
18 of reasons that go into the selection of firms.

I would say that, gosh, a local presence -governor, when -- after PaineWebber had solved AHDA's
problem, PaineWebber continued to do business with

22 AHDA and then with ADFA. They were doing so much

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business that there was a call to PaineWebber, you
better open an office in Arkansas if you want to
continue doing business here.

BY MR. O'CALLAGHAN:

5 Q Yes.

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A I mean that's very typical and they did. And they kept doing business.

8 Q Did Hutton have trouble getting ADFA deals
9 after that incident or --

ADFA did not like Hutton after that, no. 10 They did not. For that reason. They had a hard 11 time. They lost credibility. I mean, even though at 12 the time I would say they were probably the 13 preeminent underwriting or idea shop for municipal 14 15 securities, they wouldn't get their phone calls 16 returned. I mean, they just turned their back on the only state agency that was authorized to issue bonds 17

18 on a regular recurring basis. And you know, I don't

19 blame them. I don't blame AHDA. I wouldn't have 20 called them either.

Q To the best that you can recall, what percentage of Lasater & Company's proposals were 1 accepted by ADFA?

1 2

A I don't remember that, Michael.

Q You don't know? Do you know if any were turned down?

A Yes, I do know some were turned down. ADFA was a tough -- they had a tough staff and a very demanding board.

Q But once again, I come up with the problem, they had a demanding board, how would they be demanding to, say, Lasater & Company?

A Well, if I, for example, would call Margaret Davenport, which I did routinely, and visit with Margaret about a concern of, let's say we are not getting enough bonds to sell. Keep in mind, the senior manager allocates bonds; do you know what I mean by that?

O Yes.

A If we had a particularly high issue, and we had sold 38 million bonds at a fixed maturity and the senior manager didn't want to give us those maturities, we were out of luck, so we complained constantly we are not getting the securities. Well,

you know, you are in the deal, we will do the best we can, go talk to staff. The problem was not with the staff; I mean, we would complain. But those -- that was a very recurring problem, because the -- there was such an appetite for these securities, they would go right out the door.

So does that answer that question? I mean those are the kinds of -- I took those up with Margaret all the time and James Brannon and sometimes we would want a bigger piece of the management and I would go to them and complain, why don't we get more management fee? Well, I mean, I don't know, talk to the staff.

The staff would make recommendation after an evaluation of the proposal, and then say, okay, the financial fees will be split up this way.

Q They would allocate which underwriters got which piece of the management fees?

A If there were tiers, yes, you bet. You bet. It was like -- if you take the cover of an official statement, you know how important it is to be on the left, everybody goes nuts about that, you

got to be positioned, and typically, if there were 2 two national co-managers, the firm that ran the books 3 that fully allocated the bonds would have to be in 4 the upper left. There would be another tier; they 5 received a lesser fee. There would be another tier. 6 and they received a lesser fee. So it was constantly 7 varying.

> O The fees varied on the management side?

Yes, they constantly changed. The splits were always -- not always. They were routinely different, depending on how much participation the firm had in structuring the deals, how active they were, stuff like that

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And how did the board make those 0 determinations without looking at the different proposals or with discussions with the lead underwriter? Do you know how that happened?

Well, I was never a lead underwriter, so I don't know. We lobbied the lead underwriters to get more money, but, of course, if we got more money, it means they had to give it up, and they were very reluctant to do that.

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Typically the staff makes a recommendation once proposals are submitted to the full board or to a committee of the board. These are the firms we think you should interview, or if this is a short list determination, this is a short list. If it is the outcome of the short list, here is the firm, here is the spread, here is how we will allocate the money. Here is where the money is going to go.

And the income that the firm generated from participating in the bond underwritings, how would that be broken up between receiving management fees and then doing distribution?

I would tell you that every deal is different. With the -- it really -- it varies from deal to deal. If there is a -- if there is a mandate by the board to bring the deal in at a specific rate, because the board's going to take the money and loan it to banks, who will make loans, then more money is taken out of the gross spread and put into the sales commission, because you can now sell the bonds at a deeper discount and get a better rate.

So the management fee diminishes. The

lion's share of all fees in municipal finance that I have ever seen is in the sales commission. If you don't sell them, it doesn't matter what your management fee is. You don't get hired again.

1 2

There is a takedown, which is a jargon for the sales commission, and then there is a concession that you can offer to other dealers, so that if you were T.J. Raney & Company and I was Michael Drake & Company and I had some securities and the sales commission was a point less, a point for concession, and you were a NASD dealer, I could sell you those securities with two points in it one, for you and one for sales commission. If you were not, you didn't get the concession. If you were an institutional buyer, you got the concession. If you were an individual, you didn't get the concession. That went to the house, part of our underwriting risk.

So if you took a dollar and allocated the dollar amongst management fee and the actual takedown, the commission on the sales, I will say that 75 percent of it would go to sales commission, so it is important -- it is important to get the

staff's attention when those bonds are allocated because that's where you make your money, and if you don't sell any bonds, you don't get any money. It is just that simple.

And one of the amazing things about this whole deal with ADFA is that people don't understand if there is a gross spread of 2-1/2 points in a deal, you divide that up among all the people, that's not how it works. It is based on how much you sell. You get a little bit for management fee, you get some of your experiences reimbursed if you are real lucky, and you have to get out there and sell bonds and that's how the house makes money.

MR. COLE: I apologize if you covered this before I came in. For me it would be helpful to have on the record at least in a general way now that we are talking about management fees, and points and spreads, what the underwriter does for the issuer; what risk the underwriter assumes, what's service the issuer is getting from the various underwriting firms in these transactions; is that --

MR. O'CALLAGHAN: That's fine. That would

		61
1	be instructive. Just make sure that we define who is	
2	the lead underwriter and what each risk is being	
3	taken on by each firm, lead versus co	
4	MR. COLE: I didn't want to interrupt your	
5	line of questioning, but I thought it would be	
6	helpful to get that on the record now.	
7	MR. O'CALLAGHAN: Certainly.	
8	THE WITNESS: If the deal is a firm	
9	commitment versus a best efforts	
0	MR. COLE: Maybe you should define those	
1	terms for this record.	
2	BY MR. O'CALLAGHAN:	
3	Q In relation to the bonds specifically.	
4	A Let's talk about ADFA bonds.	
5	Q Yes.	
6	A When ADFA would sell or authorize the sale	
7	of securities, after it had appointed a team, an	
8	underwriting team, the as I mentioned earlier, the	
9	senior manager would get price ideas from all the	
20	trading desks of all the co-managers and it would	
21	typically be on a conference call. Then they would	
17	send out a pricing sheet.	
22	send out a prienty sheet.	
		62
1	MR. COLE: Would that be based on the	62
1 2	MR. COLE: Would that be based on the perceived demand for the securities?	62
1 2 3	MR. COLE: Would that be based on the perceived demand for the securities? THE WITNESS: Demand and rates with	62
1 2 3 4	MR. COLE: Would that be based on the perceived demand for the securities? THE WITNESS: Demand and rates with comparable securities.	62
1 2 3 4 5	MR. COLE: Would that be based on the perceived demand for the securities? THE WITNESS: Demand and rates with comparable securities. Expressions of interest wasted on the	62
1 2 3 4 5 6	MR. COLE: Would that be based on the perceived demand for the securities? THE WITNESS: Demand and rates with comparable securities. Expressions of interest wasted on the official statement from institutional buyers, banks,	62
1 2 3 4 5 6 7	MR. COLE: Would that be based on the perceived demand for the securities? THE WITNESS: Demand and rates with comparable securities. Expressions of interest wasted on the official statement from institutional buyers, banks, insurance companies, people who wanted tax-exempt	62
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worked in terms of the extent to which ADFA was

behind these bonds?

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 THE WITNESS: ADFA had no guarantee power.

These were not full faith and credit bonds of the state of Arkansas. These were all revenue bonds.

And the credit rating assigned by Standard & Poor's and Moody's, if both were asked to assign a credit

rating, was derived from the revenue source.

MR. COLE: The projected revenue stream from the properties that would be financed with the bonds.

THE WITNESS: Taking into account default scenarios, taking into account the amount of the reserve funds, et cetera, et cetera, et cetera. So I mean, in those days, there was no history that we could take of default like you do now with GNMA. So ADFA did require firm commitments, said okay, these are going away which means you are going to have to underwrite these bonds so we would have to buy the

bonds and hope we had enough commission in them to

sell them and make a profit or at least break even.

MR. COLE: In layman's terms, you didn't

sell them.

THE WITNESS: We had to eat them and we ate a lot of bonds. We ate a lot of bonds. On a best efforts, you do the best you can, make your best efforts to go out and sell the bonds at any price and take it back to the issuer and say take it or leave it. The issuer says okay, I will sell them to you at that price. Then you go back and confirm the orders to the people. That was the best deal. ADFA never did that.

MR. COLE: All the ADFA dealings with firm commitments --

THE WITNESS: Yes.

MR. COLE: What was the benefit to ADFA of a firm commitment underwriting deal with the underwriting firms?

THE WITNESS: And that was the certainty that the transaction would be accomplished. There is no certainty in a best efforts. There is no certainty with regard to rate, terms, price, which are all important aspects.

BY MR. O'CALLAGHAN:

Q During the time that Lasater & Company was

65 1 participating in the bond underwritings, would you 2 say there was generally high demand for these bonds? 3 A It varied. It varied. 4 Again, demand is -- the market is driven by 5 supply, the number of bonds that are new issues that 6 happen to be occurring that week, so timing was very 7 important. 8 Rate, and just -- there are a whole lot of 9 things that determined that, Michael, and it varied. Sometimes there were: sometimes they weren't. 10 11 Was Lasater & Company's participation in 12 ADFA bond offerings generally advantageous, would you say, from a financial point of view? 13 14 MR. FEINSTEIN: Advantageous to whom? MR. O'CALLAGHAN: To the company. 15 16 THE WITNESS: To Lasater? 17 BY MR. O'CALLAGHAN: 18 O Yes. Did they make money? 19 A I would say that we made money. Yes. 20 And how would you characterize it? Was it a lot of money? Average return? Good return? Great 21 22 return? 66 It was below what we could earn by putting 1 2 our capital at risk in daily trading. It was less. 3 The spreads between the offering price and 4 the purchase price with ADFA are very, very narrow. Very narrow. We could make a lot more money trading 5 6 in the secondary market than we ever could trading in 7 the original issue market. 8 Now, that's not the same for stocks or 9 that's not the same for other securities, but 10 tax-exempt securities, it's a completely different 11 game with the state issuer. 12 The big question is why was the firm 13 involved in it? 14 To support the state. To support the state. And -- I mean, we were corporate citizens. 15 16 We had a responsibility to support the state. We 17 wanted to be players in that market. We wanted to 18 do -- we wanted to build our municipal underwriting

22 MR. COLE: Did you make money on secondary

capacity in, and one way to build a resume is to have

experience in a specific area. And that was very

important to the firm.

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market trading after the initial offering? Was that an additional benefit to the firm?

THE WITNESS: We made more in secondary market trading than we would make in original issue.

MR. COLE: That was another reason for the

firm --

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THE WITNESS: Yes, a lot of -- for example, it is very difficult to call on a major insurance company like, say, an Allstate at the time or -- or someone who was a very prolific buyer of securities if you didn't -- if you couldn't show that buyer that you were a co-manager in the deal. They wouldn't give you a time. They wanted certainty of deliveries because they have laddered maturity, and if they

wanted to buy a maturity that was 10 years out and they wanted \$3 million worth of bonds, if you weren't

a co-manager and you couldn't confirm it right then,

you didn't get the order.

BY MR. O'CALLAGHAN:

Q There was a benefit in that?

A There was a benefit in being the

co-manager, sure. If you had a good relationship

allocate the bonds to you that you had sold -- and that was not always the case -- clearly if PaineWebber sold -- had a relationship with Allstate, and I had an order for the same bonds, PaineWebber would get the bonds. I mean, that's just the business.

with the senior manager, and he would or she would

Q And during the time period let's say '82 through '86 -- I think that was generally when you were there -- the best you can approximate, how much money would you say the firm took in with regard to ADFA bonds in sales commission?

A No way of knowing that, Michael, unless I went over the records. I have no way of knowing that. I just don't know the answer to that.

Q What percentage of your income during that time period was derived from working on the ADFA deals?

A I was on salary. I was not on a commission. And that would -- ADFA [c1] within my responsibilities. I was not given bonuses or perks. I was expected to fulfill my responsibility in terms

1 of ADFA. And I am glad it wasn't.

O Okay, you had mentioned earlier that the firm had net capital problems when you first arrived. Were those problems still in existence at any time while the firm received ADFA bond contracts?

I don't recall any. I don't believe there were with ADFA. Because I recall the problem was when we were selling AHDA, and --

Q What's your recollection of that? What's your recollection of that?

Of what happened?

12 Yes. 0

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13 As I mentioned earlier, I was visiting with 14 Gary Chambers about a couple of matters, and he

15 indicated to me that we had a net capital problem

16 because some of the assets that David Collins had

17 purchased with firm capital were now being calculated

18 for purposes of net capital, were clearly against the

NASD rules. 19

20 The way it was overcome, we removed those assets and Dan Lasater put more securities into the 21 account of the firm, that could be counted as 22

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1 collateral for purposes of net capital calculations. 2

The only way the firm could have met those net

capital rules is if Dan would have put more money in 3

it in either cash or securities, which he did. 4

5 Was that his own money or -- where did that 6 money come from?

7 He had a variety of sources. As I 8 remember, we used securities that he had purchased for his mom, and we pledged those. We used -- I 9

think that he was a trustee. I don't -- actually, I 10

remember this, but I do know that there were a 11

12 variety of gifts that he had given his children, that 13 some of those were pledged. It really depended on

the market value of the securities, because we had to 14

15 market constantly to determine net capital, so it 16 depends.

17 If they were fixed income securities, they 18 were easier to deal with rather than stocks that were 19 pretty volatile. That's what I remember we did.

20 Any additional cash put in or was it all 21 securities?

I wouldn't know if there was cash put in.

I wouldn't be surprised. I wouldn't be surprised if
 Dan put cash.
 You said the net capital problems might

Q You said the net capital problems might have existed during a time you had AHDA contracts?

A Yes.

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Q Were they alerted to these problems?

A I don't remember. It only occurred

8 briefly. I could remember that. And I do remember

9 that there was some -- the Arkansas State Securities

10 Department raised the issue, and I'm reasonably sure

11 that everybody in Arkansas knew about it. Well, not

12 everybody; informed people. I am pretty sure it was

13 in the newspapers.

That was, at that time, not something
that -- or even now, that people would take lightly.
It is a pretty serious situation.

Q Yes. Did the firm have any other problems with the NASD, any other violations?

19 A They had, you know, the stuff which is 20 pretty routine. They had some supervision problems,

21 you know, with brokers, that you see at every firm.

22 Unauthorized trading occasionally. I mean, I don't

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recall anything else.We had a ro

We had a rogue trader. That cost us a lot of money, which was -- ended up being adjudicated by the NASD, but that had nothing to do with, you know, like a firm violation. I don't think there were any sanctions against the firm. I don't recall the -- the business -- the district business conduct committee ever raising any concerns over our

9 company.

Certainly after the -- those illiquid assets were removed, it became much easier.

Q Do you know what year that occurred, when

13 that --

A It was early on my tenure there. I am going to say it was -- probably the first year I was there. Maybe the first year I was there. It was while Collins was still there and he was CEO. Again,

18 he didn't take a material part in any of that. He

19 wasn't licensed, so he couldn't. David was

20 responsible for paying the bills, keeping the net

21 capital requirements within line, and when we found

22 out what had gone on, I went directly to Dan and

73 1 said, you've got a problem with your partner and 2 here's the partner. And so we recommended it. 3 So you went to Dan and told him about it? 0 4 Α I did. 5 0 This is after you had the conversation with? 6 7 Α Chambers. 8 0 Gary Chambers? 9 Α Yes, I did. 10 0 Did ADFA conduct any kind of due diligence 11 with regard to underwriters and co-underwriters that 12 they entered into contracts with? 13 MR. FEINSTEIN: Can I have that one read 14 back? 15 (The reporter read the record as requested.) THE WITNESS: I just have to guess. I 16 17 mean, I never worked for ADFA. 18 BY MR. O'CALLAGHAN: 19 Were you ever asked to supply financials of 0 20 the firm? 21 Α Ves 22 0 How about a disciplinary records, records 74 1 of sanctions, were you ever asked to supply those? 2 I don't remember. That would be easy to 3 find out by looking at the RFPs. It would be easy to 4 find out. 5 MR. COLE: Mike, could you go off the 6 record for a moment? 7 (Discussion off the record.) 8 MR. O'CALLAGHAN: Let's go on the record. 9 THE WITNESS: That investment firm that did not get into ADFA was Swink & Company, S-w-i-n-k. 10 11 BY MR. O'CALLAGHAN: 12 Why was that? Q 13 They had -- they had -- they were in the 14 paper every day with NASD violations. They 15 eventually were disbanded and the founders were sent 16 to prison for securities fraud, just Bad News Bears. 17 Just refresh my mind, when did they go out 18 of business, do you know? 19 Α Swink?

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Q

Yes.

Last year, year before that.

You said in '82, Dan Lasater wasn't

licensed. Did he ever become licensed?

A I don't know.

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Q Do you have any reason to believe that he would have become licensed at any time? Did he engage in activity that would have necessitated that?

A He was not an officer of the firm, and he had had no direct supervisory power or responsibility, so I remember some talk about him, that he was considering becoming licensed as a general securities -- I think series 7, whatever that is, not a supervisor, though. Not a supervisor position. I think there was some concern that he needed to be licensed if he was going to take a very active role, and I don't think he did as long as I was there.

Q Could you characterize the role he played during the course of your employment there at the firm?

A Sure. Dan was the money source. Dan had had a very successful career in thoroughbred horses, breeding; was one of the top breeders in the world; had won several Eclipse awards; was well known in

that industry, and was talked into backing David Collins in Collins Locke & Lasater.

Locke --

Q By whom?

A By David. David talked Dan into it, David and George Locke. George had befriended Dan years before that when George was an Arkansas state senator, and they had and maintained a very close relationship.

So Dan's role was -- at the time, he had his ranch in Ocala, Florida, his thoroughbred farm, and he spent a major portion of his time in Ocala dealing with that and shipping horses around the world.

So he had an office in the building. In fact, when I was being interviewed by him, I asked him what he was going to do, because I wanted to make sure that he had made a long-term financial commitment to that firm before I joined them. Undercapitalization is just a death blow in securities.

Q Did you know about that before you got in

1 there, about the capital problems?

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A No. No. No. What I -- I want to differentiate between making a capital commitment to the firm and net capital violations.

Dan did not put in an inordinate amount of money. He put in enough money and securities to meet the net capital requirements based upon our trading activity at the time.

What happened was, in the day-to-day operation as the firm started prospering, David Collins bought these assets, and instructed Chambers to calculate the net capital requirements of the firm by using those assets.

So, Dan's role was as an investor. He wanted to know what was going on with the company. Whenever we -- if there was a transaction somewhere else and he knew someone that could open a door for us, we would go to him for that. But he mainly watched the bottom line

Q While the firm was participating in the ADFA bonds underwriting, how many people were dedicated to distributing the bonds, selling in the

primary and secondary market?

A Okay. There were two municipal traders, one was a second market trader, the other was a primary issue trader. The secondary market trader provided the sales force with access to bonds that would appear in the blue list, which is a daily publication of securities that are available as well as over the wire.

I was responsible directly for the negotiated financings, so my primary responsibility was to go find business for us.

As far as sales, Michael, that's hard to answer. It fluctuated with the sales force, of course, but it also depended upon where the bonds were priced, and what weighting they had. For example, when we get the pricing list, I would make copies, every sales desk in the firm would get a copy of the offering.

They would then call their customers and say we are offering these securities at this price, this maturity, this rating, so at any one time all of them or none of them could be selling. It just

depended on -- I mean, it is not an answer I can give you on precise terms. It is not 10, it is not 60, it is sometimes 60, sometimes none.

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With regard to the market for the bonds, when would you say the majority of the people you were selling the bonds to, were they institutions or were they individual investors?

The majority were institutions, banks and insurance companies.

What percentage would you say were sold to individual investors?

Very minor portion. I would say less than ten percent. I would be surprised if it was more than 5 percent. The reason for that is an individual investor can't buy as many bonds as a bank or an institution like an insurance company, and it just -it is very -- it is hard work, and it is --

Are there different spreads, though, between the two type of customers, institutional investor versus an individual investor?

Different kinds of spreads. If we are in a primary offering, and a

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nonmember of the selling group but a NASD member 1 2 calls and says, I've seen the wire, I would like to buy 50 bonds in 2001, we sell them at the concession 3 to that buyer. We cannot sell at a concession to the 4 5 individual. They have to buy it at the net offering price. You can't do it differently -- you can't sell 6 7 to him at the concession and you wouldn't, unless the 8 market changes and there is a reason to do that. 9

Are you aware of that ever occurring?

I am not. And if it had occurred and I had known about it, there would have been disciplinary action.

Q Did the governor have any role in the process for awarding contracts with regard to the bond underwriting contracts, do you know?

Not to my knowledge.

Did any of the ADFA board members or staff people confer with anyone in the governor's office with regard to recommendations on the bond underwriting contracts?

Not to my knowledge.

Are you personally aware, have you ever

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1
    heard of improprieties that have occurred in
    connection with granting a bond underwriting contract
2
    to Lasater & Company?
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 4
        A
            No --
 5
            MR. FEINSTEIN: Before you answer that, can
 6
    we maybe come to some understanding of what you mean
    by "improprieties"? Are you talking about
 7
    illegalities? I think it would be helpful to clarify
8
    that a little bit.
9
            MR. O'CALLAGHAN: Sure.
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           MR. FEINSTEIN: Your definition of improper
12
    may not be the same as his.
13
           MR. O'CALLAGHAN: No, that's actually
14
    fair.
15
           BY MR. O'CALLAGHAN:
16
        O Well, first of all, any illegal
    improprieties in connection with the granting of bond
17
    underwriting contracts?
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19
        Α
             No
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        0
             To the extent that you understand, any
    unethical influence peddling with regard to bond
21
    underwriting contracts?
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                                                            82
 1
        A No.
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             Any bribes in connection --
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        Α
           No.
 4
             Are you familiar with a bond underwriting
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    contract that was undertaken in 1985 to provide
    capital for the purchase of the new police radio
 6
 7
    system for the state of Arkansas?
 8
        Α
            Yes.
 9
             What's your familiarity with that?
        0
        A I was one of the co-managers.
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             Who were the other co-managers?
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        Α
             T.J. Ranev & Sons and E.F. Hutton. They
13
    are no longer in existence. They are now a -- they
    were acquired by Morgan Keegan & Company.
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15
        O What responsibilities did you have with
    respect to co-managing of this bond underwriting
16
17
    offering?
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             I was responsible for helping prepare all
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    the documentation. I was responsible for
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    participating in the presentation to the State Police
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    Commission. I was responsible for lobbying
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commissioners. I worked closely with the state

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83 1 police staff, Colonel Goodwin and somebody else whose 2 name escapes me right now. Was it a Simpson or Mitchell, do you 3 4 recall? 5 Yes. They were both state police commissioners. The staff member I am trying to think about was a -- a subordinate of Colonel Goodwin's, he 7 was an active duty state trooper. 8 9 Anything else? 10 MR. FEINSTEIN: You mean 11 responsibilities --MR. O'CALLAGHAN: Yes. 12 13 MR. FEINSTEIN: I just wanted to make sure 14 he had the question in mind. THE WITNESS: Just about the same thing I 15 did with ADFA. 16 BY MR. O'CALLAGHAN: 17 18 Who was the lead underwriter on that? O 19 Α E.F. Hutton. 20 Did you participate in the structure of the 0 21 deal and how to --22 Yes, I did. 84 1 Who did you work with on that? 0 2 I worked with Steve Claiborne, who is the 3 regional manager for E.F. Hutton, 4 C-l-a-i-r-b-o-r-n-e. A woman named Laurel, Laurel something from the New York office of Hutton, who was 5 a data processing wiz and someone from Hutton's lease 6 7 finance group whose name escapes me, but I am sure we could find it in the documents. 8 9 And --10 0 If you can think of names. Bob Warrendhorf. 11 Α 12 We don't know what documents are still in 13 existence, unfortunately. What was the last name? 14 A Bob Warrendhorf was the syndicate desk 15 contact at Hutton in New York. 16 W-a-r-r-e-n-d-h-o-r-f, I think. I can't remember 17 that guy's name from Hutton leasing, but I worked 18 with him. And we structured a very unique 19 transaction. 20 How did the group -- how was the -- were 21 the underwriters teamed together to present a single 22 proposal?

1 A Yes.

2 How did that come about? 0

3 A colleague at T.J. Ranev of mine, named 4 Paul -- I will come back to that.

Paul Young? 0

Paul Young and Bob Snyder, his immediate superior, called me for a meeting, I am going to say two years before the deal was done. And they -- this was right after Bill was elected to his second term. I think.

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0 When you say Bill, you mean Bill Clinton?

12 Α Right.

13 And they called me to discuss an idea that 14 they had to structure a bond issue for the state police. The state police -- there had been some 15 rumors that the state police needed a new 16 17 telecommunications system, since there was a

18 patrolman or trooper murdered up in northwest

19 Arkansas because he was out of communications with 20 his base. It is very hilly up there. So Paul came

21 to me and Bob, and they asked me if I would help them

with this -- with three things. 22

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1 One, they knew that while Bill was you've 2 office, that there were two firms in Little Rock 3 that -- two investment firms that helped him with a variety of different things. One was Lasater & 4 Company -- one was Dan Lasater, and the other was 5 6 Doobie Sullivan.

7 The Wright, Lindsey, Jennings law firm -the reason they wanted us to consider helping them 8 was that we had to write legislation that would 9 enable the state department of finance and 10 11 administration to pare off, if you would, revenues from driver's license renewals and I think license 12 13 plate renewals or something like that. But the state 14 was not authorized to do it, to dedicate those 15 revenues to a specific source out of the general fund, and it would take legislation to accomplish 16

17 that. 18

And they also recognized correctly that if the governor did not support this and put it in his legislative agenda, that the chances of it passing were nonexistent. And so they correctly came to me and said, would you help us? And I said of course I

will, who are we going to select as the lead
underwriter? And Bob Snyder suggested that
E.F. Hutton would be a good choice, since Raney and
Hutton had teamed up in Texas in a variety of
southern or southwestern states and do a lot of
business together and they had a great working
relationship.

Also, at the time I was trying to forge new relationships with investment banking firms on Wall Street, since we depended so much for supply of securities on those firms and I thought it would be a great opportunity.

12 great opportunity.13 So, I took i

So, I took it to Dan, and said Dan, this is what we want to do. He said proceed. Just let me know how I can help you.

Q How did you present it to him? Did you discuss with them how they mentioned that they knew that Lasater and Dabbs Sullivan had helped the governor?

20 A Yes.

Q Could explain to me in your words how you relayed that to him and how you characterized it?

1 What did Mr. Snyder --

A I said as well as I can remember -- it was a long time ago -- a T.J. Raney has come to us, because of your relationship with Bill, to try to get this legislation passed that will enable us to take a proposal to the State Police Commission to sell these securities and help them acquire this new communications system, this hotshot thing Motorola has come up with.

He said fine, what are the steps? I said the steps are, A, we had to find a law firm to draft the legislation; B, we had to work with the staff, with the governor's office to explain why we are doing this, what we hope to accomplish; and C, we have to go to the state police and explain to them what we are trying to do. He said no problem; go do it.

We chose the Mitchell law firm in Little Rock to draft the legislation for us. I don't remember now who we got to introduce it. It might have been that the governor introduced it in his package. I don't remember.

1 We met with -- over a period of several 2 months, we met with Colonel Goodwin at the state 3 police, and that subordinate whose name I don't

4 remember who was a major at the time, who was given

5 direct responsibility for the project at the staff

6 level. Colonel Goodwin introduced us to the State

7 Police Commission, which at that time was composed of

Bill Simpson, Johnny Mitchum, a guy from Pine Bluff, 8

9 an African American from Pine Bluff whose name

escapes me. Win Rockefeller, another -- somebody from 10

eastern Arkansas who was a sheriff, I think. I don't

12 remember his name.

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And we said, we are going to need your help lobbying this bill through the committees on the house and on the senate side, and then we are going to need your help getting the votes necessary to dedicate this revenue stream to this financing.

Okay. If I can just interrupt you for a moment, and we will -- we will try to go through it as methodically as possible.

21 Sure. Α

> 0 Just to go back to the original contact you

> > 90

1 had with Bob Snyder. 2

And Paul. A

Paul Young? Q

Right. A

You mentioned that Lasater and Dabbs Sullivan and Wright, Lindsey had helped out the governor when he was out of office?

A Correct.

What did they mean by that? How did they help him or support him?

I don't know how Dan directly supported Bill. I don't know if he gave him money. I don't know what kind of support. There was no -- there was no secret that Dan and Bill were friends. There just -- there was none. There was no secret to the fact that Doobie Sullivan and Bill were friends.

In fact, I recall going to Doobie's office and I think Doobie gave Bill an office and telephone when everybody had turned his back on him, and I mean literally. Stephens, our major competitor in Little

21 Rock, had worked just as hard as they could to run

22 him out of office.

And, when Frank White was elected, things began to change radically in the state, I mean radically, with regard to business, and who got what, and who did what and things like that.

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And so it was very clear, that while Bill was out of office. Dan maintained his friendship with him. It was clear that Doobie maintained his friendship with Bill. They didn't abandon him. And when he was elected, there were only a couple of places that Raney could go.

They couldn't go to Stephens because Stephens was going to compete for this business, and they told me, I asked them why did you come to me, we are just a little company. They said we know you, we understand your ability. We understand that Dan has a friendship with Bill. And we can't go anywhere else. So by default, that's how they came to us.

18 O And just for clarity, during that time 19 period, what was the level of friendship between Mr. Lasater and the governor? Do you know if they 20 saw each other and how frequently they spoke or if 21 22 they met socially?

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I don't know.

MR. FEINSTEIN: Are you talking about the time period when the governor was out of office? MR. O'CALLAGHAN: No, in '85.

THE WITNESS: Well, let me say that during the campaign, Dan was very supportive, and very vocal in his support, and so were many of us who really didn't like Frank White and were very loyal to Bill.

BY MR. O'CALLAGHAN:

What year was that? Was that in the '82 0 campaign?

Well, it was the second term, whenever that was. I think that might have been '85 or '83. I don't remember, Michael, but the campaign when he came back and beat White, we were very supportive.

When White was still in office? 0

17 Α Right.

MR. REDFERN: That was '82, I believe.

MR. O'CALLAGHAN: '82.

MR. REDFERN: '82 to '84, came back in '84. 20 21

THE WITNESS: Whenever the year was.

22 MR. FEUER: The witness doesn't know what

93 1 the year was. 2 BY MR. O'CALLAGHAN. 3 O It was when White was still in office? 4 Right. What was the question? I don't 5 remember the question. I'm sorry. 6 The question was --0 7 Α Did they see each other socially? 8 The nature of the friendship and how 0 9 frequently they saw each other. 10 I don't know how frequently they saw each other, but when I was in their presence, it was very 11 12 friendly. I would see Dan at the country club and 13 Bill would come by and say hi. He was one of 14 Arkansas phenoms, and Dan at the time was -- he was a 15 phenomenally successful guy. But I don't know about how often they talked or how close they were or -- I 16 17 just wouldn't know that. 18 Okay. Well, how often would you say that 19 you were with Mr. Lasater when you ran into the 20 governor? 21 Α When we ran into the governor? 22 When you saw him at social functions. 94 Well, clearly during the campaign, if -if -- well, I -- I don't know how to answer the question. I mean that's just -- I don't know. I can't tell you 10 times or 20 times or 30 times, but when -- when they saw each other they were cordial and friendly to one another. I mean, I can't tell

1 2 3 4 5 6 7 you how frequently it was because I don't remember. 8 I do remember seeing them together. I do remember when Dan would walk into campaign headquarters and I 9 would be there and Bill would walk in, they would be 10 11 friendly. I mean that was the nature of the 12 relationship. 13 Were you working on the campaign? Q I volunteered, yes. 14 Α

How much time did you spend on the 0 campaign?

> I don't remember. Α

Was it full time or was it part-time? 0

No, no, no. Part-time. Α

Were you working for Lasater & Company at 20 0 21 the time you were volunteering at the campaign?

22 Yes.

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Were there other employees of Lasater & 1 2 Company volunteering at the campaign? 3 Yes. How many people would you say volunteered 4 0 5 from Lasater & Company? The only one I remember specifically was 6 7 Patsy Thomasson. 8 O How much time would you say she volunteered, if you can give me a ballpark? 9 10 More than me, but not full-time. Were you in every day or once a week? 11 0 No, I was a grunt. I didn't have any -- I 12 13 was there when they needed someone to go do 14 something. I didn't sit in the meetings and talk about strategy and stuff like that. I helped raise 15 money, but I wasn't a full-time guy or political 16 junkie or anything like that. I liked Bill and 17 18 didn't like Frank White. Pretty clear choice to me. 19 How about just being in the office? How 20 often would you say Mr. Lasater talked to the governor on the phone each week? 21 22 I don't know. I don't know. I have no 96 1 idea. 2 Do you know whether Mr. Lasater had any 3 specific conversations with the governor with regard to the police radio network bond offering? 4 5 A I do not know. 6 O Did you have any conversations with him? 7 With Governor Clinton, no. Α Did anyone at Lasater & Company that you 8 0 9 know? 10 A Not to my knowledge. 11 O Did you ever hear that people did? I have heard a lot of rumors. I have heard 12 Α everything from I was personally lobbying Bill to 13 Stephens was personally lobbying Bill to try and stop 14 us from going forward with the legislation. So a lot 15 of rumors. I never talked to the governor about 16 17 this, or asked him to influence any decision. I didn't -- it was not his style to do that. It was 18 more typical of him to say, you know, your ideas are 19 20 welcome. If you have an idea, take it to my department head, go let them -- go convince them you 21

are the best and you can have the business.

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97 1 (Recess.) 2 BY MR. O'CALLAGHAN: 3 0 Back on the record. 4 We were talking about Mr. Lasater's 5 relationship with the governor. 6 Α Right. 7 And did you ever -- did you attend parties 8 that Mr. Lasater and the governor were both at at any 9 time between 1982 and 1985? 10 Yes 11 0 How frequently would you say you were at parties they both attended? 12 13 A Very infrequently. Do you have any idea of the number, any 14 0 15 number? 16 A Not more than two or three, in those 17 vears. And can you identify the parties where they 18 19 were both in attendance where you were there? 20 Clearly a -- events, I think one was a 21 birthday party for Bill, one was an inaugural party, one was a private party we were having at the Little 22 98 Rock Country Club and Bill came by and said hello, 1 2 how are you, nice to see you. 3 Q Any others? 4 Not that I can recall. A 5 0 Any Christmas, Derby Day parties, Kentucky 6 Derby? 7 Arkansas Derby. Α 8 O Excuse me? We used to have Derby Day parties at Oak 9 Α Lawn Race Track, but I don't recall Bill being at 10 11 those. I only went to one of them at the time I was there. He didn't come. Virginia was always there. 12 13 Virginia Clinton? Q 14 Virginia Kelly. Α Any firm Christmas parties? 15 0 16 Α I don't remember Bill ever being at a 17 Christmas party. 18 Did you ever attend any parties at the 19 governor's mansion? 20 Α No. 21 0 Birthday party for the governor, where was 22 that?

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             I want to say it is at the fairgrounds, one
    of the buildings at the fairgrounds, but it could
2
    have been somewhere else. I don't remember exactly,
3
    but there were thousands of people there.
4
5
            It was a big party?
6
             Oh, God, ves, a lot of folks.
        Α
             How about -- was his inaugural similarly a
7
        0
8
    big party?
9
            Major party.
        Α
        0
            What about at the country club?
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11
             That was a private party Dan was hosting
        Α
    and Bill came by. He was with a group of people. As
12
    you know, the President is a gregarious guy and
13
14
    wishes everybody well.
15
            Had he been invited to the party?
        Q
            Not to my knowledge.
16
        Α
        O What was the party for?
17
             I don't remember. It was a social event.
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    It was -- I don't remember exactly what it was but
    there were -- husband and wife kind of thing.
20
            Was the President with Mrs. Clinton at that
21
22
    event?
                                                           100
             Yes, he was.
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        Α
2
        O You said they were with a group of people.
3
    Who else were they with?
        A I don't remember.
4
            When did that take place?
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            MR. FEINSTEIN: Are we on the private party
7
    at the country club?
            MR. O'CALLAGHAN: Still there.
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            THE WITNESS: Michael, I don't remember.
    It was the last year I was employed there, earlier in
10
    that year, so it could have been like '85. I don't
11
12
    remember exactly.
13
            BY MR. O'CALLAGHAN:
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            Which inaugural?
        0
15
        Α
            The second one.
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            And the birthday party, do you know what
    year that was? Was that the same year?
17
            I don't remember. But it was in that
18
    period of '83 to '8 --
19
             Was it a big birthday, 40th birthday or 35?
20
21
             Could have been a 40th birthday party.
    Could have been. If it was, then it was well after
22
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'86. Maybe it was 35. I don't remember. It was a 1 2 birthday party. There's a lot of folks. 3

Can you put it in context of the police bond underwriting -- I guess that's probably not the way you measure your life -- the birthday party, whether it was before or after that deal was done?

I don't remember.

0 During the period '82 to '86 how would you characterize your personal relationship with Mr. Lasater?

Well, I would say it started off real well 11 12 and ended very poorly. 13

Could you walk me through how it progressed? Started well and why did it end poorly?

14 MR. FEINSTEIN: Before we go too far down 15 16 that path, I'm going to wonder whether we're getting 17 beyond the charter here. As I understand it, the 18 focus of this is supposed to be the bond underwriting contracts between ADFA and Lasater & Company. We 19 20 have been reasonably close to that subject so far. But it seems to me we are getting pretty attenuated, 21

22 and I guess I would like a little -- if you are able

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MR. O'CALLAGHAN: I can tell you --MR. FEINSTEIN: Link it up or explain to me why I shouldn't object at this point.

MR. O'CALLAGHAN: This line of questioning with regard to the relationship with Mr. Lasater is meant to elicit -- I have to be candid about it -your knowledge of his relationship with the governor and the dynamic and how that relationship related to business that was done in the state, things of that nature.

MR. FEINSTEIN: Before you -- are you getting ready to answer? I will let him answer, but I will reserve the right question by question to object and perhaps instruct him not to answer.

MR. O'CALLAGHAN: Okay. And as you know, if that happens, then if I feel that I need the question to be answered with regard to the line of questioning, I will direct him to answer anyway and if you continue to object, we will have to take it to the chairman.

MR. FEINSTEIN: Right, and we will. If we

get to that point, we will want an opportunity 1 2 probably to consult privately. But let's take it 3 step by step. I wanted to let you know I thought we 4 were straying a bit.

MR. O'CALLAGHAN: It is appreciated. 5 6 Thanks

7 THE WITNESS: My impression of Dan 8 Lasater's relationship with Bill Clinton was one, I 9 would characterize it as Bill being impressed with Dan's achievements. 10

11 You have to keep in mind that Dan barely 12 has a high school education. He would from time to 13 time boast that he had never read a book from cover 14 to cover. He was responsible for one of the great.

15 great restaurant chains, Ponderosa, I mean singularly 16 responsible for that achievement. He had come from a

17 very humble background in rural Arkansas in White

County, not far from where my family is from.

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19 He became world -- he was in the Guinness 20 Book of Records at the time as one of the greatest 21 breeders of thoroughbreds in the history of the

22 world. I mean, this is a guy who literally went from

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nothing to becoming, you know, in the Guinness Book 1 2 of World Records. You have to keep in mind Arkansas 3 was the 39th ranked state in the country in about 4 every category. It was an achievement that everyone 5 was really proud of. 6

So I would characterize Bill -- Dan's relationship with Bill as being supportive of his political agenda, being a campaign supporter, and a personal supporter, and I would characterize the governor's as being one of loyalty to Dan for his help.

Dan -- I mean Dan owned horses with people like the Firestone family who owns the -- Yankees, the guy --

Steinbrenner? 0

Steinbrenner, John Brown was a personal friend. I mean, there was just -- Dan knew a lot of folks, and they all treated him with that kinds of respect that Bill did, because of his achievements. So I don't -- I don't really -- I don't think I can characterize the relationship as being anything other

22 than that. That's what I observed. My relationship

105 with Dan diminished over the years for just a variety 1 of reasons. Some are business related; some are 2 3 personal. 4 O Are you still friends with Mr. Lasater? A I have spoken with Dan twice since I left 5 6 the firm. And that was over a CNN report that he 7 asked me to talk to a reporter, and I agreed to do it 8 with counsel present. 9 Did that have anything to do with bond underwritings? 10 11 It had directly to do with bond 12 underwritings, ves. it did. 13 O When did that occur? 14 A Two -- I am going to say two years ago. It 15 was shortly after Jean Lyons's article in Harper's. 16 and about that time The Wall Street Journal was doing their business with the bond underwriting, the 17 mistaken articles they had written about all the 18 19 profits we derived from the profit in the bond 20 underwritings. 21 To answer your question, we are not 22 friends. 106 1 Okay. During the time period '82 to '85 when all these bond underwritings were going on, did 2 3 you attend any parties where the governor was where people were using cocaine that you know of? 4 5 Where the governor was attending? 6 Q Where he was in attendance. 7 No. 8 MR. FEUER: I would wonder what the 9 relevance of that is to the underwriting. MR. FEINSTEIN: I would, too. I want to 10 note for the record an objection to that question. I 11 12 know he's answered it. 13 MR. O'CALLAGHAN: That's fine. This 14 relates to propriety of the granting of underwriting to those people involved in illegal activities. 15 Pretty much right on point. 16 17 MR. FEINSTEIN: Don't let my silence be 18 interpreted as acquiescence there. 19 BY MR. O'CALLAGHAN: 20 Q This is going to be two questions, two

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degrees, and this is along the same line.

Whether or not you know whether the

- 1 governor had any knowledge of any type of law
- 2 enforcement investigations that were being conducted
- into Mr. Lasater's use of cocaine, distribution of 3
- cocaine during the period '82 through '85? 4
 - No, I have no knowledge of that.
 - Have you heard that he did have knowledge? O
- 7 No. I haven't. Α

8 MR. FEINSTEIN: Just so we are clear, the 9 question was whether you had heard that the governor

had knowledge of that type of investigation. 10

THE WITNESS: No, I have not heard that 11 12 rumor.

13 BY MR. O'CALLAGHAN:

> Do you have any reason to believe that he 0 would have knowledge of any investigations?

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17 Are you familiar with Mr. Lasater's 18 relationship with Roger Clinton?

19 I am.

20 And during the period of '82 through '85,

21 how would you characterize that relationship?

MR. FEUER: I don't see what his

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relationship with Roger Clinton would have do with 1 2 bond underwriting.

MR. FEINSTEIN: I will join in that objection.

MR. O'CALLAGHAN: It all has to do with drug use within the firm and Mr. Lasater's drug use and just seeing who had knowledge, when and where.

MR. FEUER: If that's the case, you might try to quickly get to the point with the witness of whether his understanding was that that had any bearing on the bond underwriting contracts; if it did, obviously then you can pursue it.

MR. O'CALLAGHAN: I want to build a foundation as to what the relationship was between the two of them.

MR. FEINSTEIN: Why don't we take it question by question.

BY MR. O'CALLAGHAN:

- What was the nature of the relationship 20 between Mr. Lasater and Roger Clinton?
 - They were friends. Α
 - 0 Were they close friends?

109 1 MR. FEINSTEIN: Objection on the grounds 2 that was ambiguous.

3 THE WITNESS: They were friends. They were more than acquaintances and less than -- it was not a 4 father-son relationship. They were friends. Roger 5 was an employee at the time, so --6

BY MR. O'CALLAGHAN:

8 Q Did they go out to bars together, go to 9 dinner together?

Occasionally. Α

Was -- during the period '82 through '85,

12 was -- as far as you know was Mr. Clinton aware of 13

Mr. Lasater's drug use? 14

Roger Clinton? Α

15 0 Correct.

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16 A Yes, I would imagine he was aware.

Q What's the basis for your belief that he was aware?

19 I read it in the newspapers. Α

Do you know, or have you ever heard whether

Roger Clinton told the governor about Mr. Lasater's 21

22 drug use during that time period?

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No. Α

2 During the period '82 through '85, were there a number of people at the firm engaging in drug 3 use, cocaine, at Lasater & Company? 4 5

MR. FEINSTEIN: I want to object to that 6 question, as -- I haven't heard yet what -- how that's going to be -- based on what he told you about 7 his knowledge concerning the -- any knowledge that state officials may have had about drug use, I am 9 going to object on the grounds of relevance and it 11 being outside the scope of your charter. If you can

explain to me how it connects, I will reconsider it. 12 13 MR. O'CALLAGHAN: Same explanation as I asked specifically on Mr. Lasater any drug use at the 14 15 firm. I can go right to the question whether the governor had knowledge of -- first, set the 16 predicate, whether there was drug use at the firm, 17 that you are aware of, and then from there I will go 18 on to the next question, to the knowledge --19

MR. FEUER: The problem is none of it -you have asked several questions on this line. None

of it is yet getting any closer to bond underwriting

contracts between Lasater & Company and the ADFA. 1 2 MR. O'CALLAGHAN: It goes towards the 3 granting of the bond underwriting contracts --4 THE WITNESS: Could I have a break to talk 5 with my counsel? 6 MR. O'CALLAGHAN: Absolutely. 7 MR. FEINSTEIN: There may be a way around 8 this, but let us talk about it. 9 MR. O'CALLAGHAN: Certainly. Let's go off 10 the record. 11 (Discussion off the record.) 12 MR. O'CALLAGHAN: Back on the record. MR. FEINSTEIN: Mr. Drake wants to 13 14 supplement his answer to an earlier question that you 15 asked him regarding any basis that he might have for 16 Roger Clinton's knowledge that or awareness that Dan Lasater used cocaine. I believe you asked him that 17 18 question. 19 MR. O'CALLAGHAN: Correct. 20 MR. FEINSTEIN: And he indicated that he 21 had read that in the newspaper. He would like to 22 supplement his answer to that question now. 112 1 THE WITNESS: I also observed them using 2 cocaine together. 3 BY MR. O'CALLAGHAN: 4 I am not sure if I asked this, and if I 5 did, I won't ask it again because I don't need it answered twice. I may have lost my train of thought 6 at the break. The question I wanted to ask 7 8 was whether or not you have knowledge -- whether or 9 not -- actually, I did ask the question. So let me 10 strike that last comment. Did Governor Clinton ever ask Mr. Lasater 11 12 to assist Roger Clinton in finding a job? 13 Not to my knowledge. 14 O How did Roger Clinton come to work for 15 Mr. Lasater? 16 I'm not privy to that. I do know he worked for Dan. I don't know how it came about. I wasn't 17 involved in that 18 19 In what capacity did he work for him? 20 My information is that he worked at the 21 farm for Dan. 22 In Ocala? 0

A In Ocala is my understanding, but that's not a firsthand understanding. That's just -- that's what I think; if he worked, that's where he worked.
I may have read that. I may have heard it. I do know he was employed by Dan and I do know that he worked during the period that I was there. I think it was at the farm.

8 Q Do you know how long he worked for him, 9 what period of time?

10 A No.

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Q Was it the whole time you were at the firm or was it part of the time?

A It was toward the end of my tenure, and I would not know how long it was, but it was in the second half of the three years I was there. I would say it occurred during that period, not for the entire period because I don't know how long it was, but it occurred in that period.

19 Q You said earlier you had observed both --20 you had observed Mr. Lasater and I believe you said

21 Mr. Clinton?

A Roger Clinton.

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Q Roger Clinton doing cocaine. How many times were you in contact with Mr. -- with Roger Clinton and Mr. Lasater, in the social setting during the time you were employed there?

A Women, the only time I saw them together

A Women, the only time I saw them together was in a social -- well, I saw them once in Dan's office, together, discussing horses. Every other time that I can recall seeing them was at a social occasion.

10 Q Okay.

A And maybe a dozen times over the period of time that I knew Roger.

Q Did the governor attend any of those social occasions?

A I don't recall ever seeing the three of them together.

17 Q When you -- would you say Mr. Lasater was 18 better friends with Roger Clinton than Bill Clinton, 19 or was there a difference in the relationship? 20 A I saw Roger and Dan together more

A I saw Roger and Dan together more frequently than I saw Bill and Dan, so just on that basis I would say that Roger and Dan had a closer

115 1 relationship than Dan and Bill, just on the basis of 2 the frequency of the association. Do you know what type of employment Roger 3 Clinton was receiving from Mr. Lasater during the 4 5 time period he was employed --6 No. Α Was he employed by the firm or was he 7 0 employed by a separate entity, do you know? 8 I don't know. I would be surprised if it 9 was Lasater & Company. I would imagine it would be 10 Lasater Farms, which was the name of the breeding 11 12 operation in Ocala. 13 Is that still in operation? No, it's been liquidated. Well, it's still 14 there, but Dan doesn't own it. Put it that way. 15 It is no longer Lasater Farms? 16 No, he sold that just before I left, and 17 all his thoroughbred operations. 18 Do you know whether or not Dan Lasater ever 19 loaned any money to Roger Clinton? 20 21 I have no personal knowledge of that 22 although I have read about that in the paper. 116 1 Do you know about that from any other 2 sources, anyone who has told you about it? 3 No. O Do you have any knowledge of when the first 4 time that anyone in the governor's office learned 5 that Dan Lasater provided Roger Clinton with a loan? 6 7 Α No. 8 Have you ever heard when someone in the 9 governor's office first learned that? 10 Α 11 Did Dan Lasater ever assist Roger Clinton with any legal costs associated were any kind of 12 legal problems he might have been involved in? 13 14 Not to my knowledge. 15 THE WITNESS: My stomach is starting to 16 growl. 17 MR. FEINSTEIN: Are you getting close to a 18 stopping? 19 MR. O'CALLAGHAN: We are pretty near a natural break. Let me make sure I covered what I 20 21 needed to.

Okay. I have one more on this line and

117 1 then we can take a lunch break. 2 THE WITNESS: Right. 3 BY MR. O'CALLAGHAN: 4 Q Did Governor Clinton ever attend any 5 parties at apartment 12-B in Ouapaw Apartments? 6 A Not to my knowledge. MR. O'CALLAGHAN: Why don't we go off the 7 8 record. 9 MR. FEUER: Let me ask a few questions so we won't have to go back to this area after the 10 11 break. 12 **EXAMINATION** 13 BY MR. FEUER: 14 Q How long was Governor Clinton at the 15 private party at the Little Rock Country Club that 16 Mr. Lasater hosted? 17 Governor Clinton did not attend the party. 18 He was passing the party. 19 Was he on his way to another event at the country club? 20 21 He was leaving the country club and he 22 stopped by to say hello. If I led you to believe 118 1 that he was invited to the party, I didn't intend 2 that. I stopped by, shook hands, Hillary said hello, 3 they were gone. 4 O So they were --5 30 seconds. 6 I hope I didn't mislead you on that. 7 MR. O'CALLAGHAN: No, you didn't. 8 Off the record. 9 (Discussion off the record.) 10 (Whereupon, at 1:20 p.m., the deposition 11 was recessed, to be reconvened at 2:20 p.m. this same 12 day.) 13 14 15 16 17 18 19

119 AFTERNOON SESSION (2:32 p.m.) 1 2 Whereupon, 3 MICHAEL J. DRAKE resumed the stand and, having been previously duly 4 sworn, was examined and testified further as follows: 5 MR. O'CALLAGHAN: Back on the record. 6 7 **EXAMINATION** 8 BY MR. O'CALLAGHAN: Mr. Drake, did you say earlier this morning 9 that you believed that Lasater & Company did some of 10 the underwriting for the AHDA deals? 11 12 Yes. Do you know when that participation took 13 14 place, during what years? It would be -- well, they were co-managers 15 when I arrived on the scene, so that would be like 16 1982 or '83. As I recall, they were already 17 co-managers on a sporadic basis, as I recall. I 18 think it was like deal by deal, not permanent, so it 19 would have been '82-83. 20 Had Governor Clinton been reelected yet or 21 22 was that prior to his reelection, if you recall? 120 That was prior to the reelection, I am 1 pretty sure. I am pretty sure it was. 2 Okay. When ADFA came into being, did AHDA 3 4 cease to exist or was it a metamorphosis or how did 5 that work? 6 It would be fair to say that ADFA was a 7 successor of AHDA. They inherited those powers plus 8 many more. And if I am not mistaken the board was expanded, and the staff functions were expanded 9 accordingly. In fact, I think the reason -- I think 10 there were geographic requirements for board 11 12 appointments. They had to be --13 O Certain districts? A Certain districts, I think, and certain 14 15 professions, things like that. 16 MR. O'CALLAGHAN: I would like to show you 17 a document, multipaged document which consists of a chart. The title of the chart as represented on the

first page reads "ADFA (and AHDA) use of professional

four-page document Bates stamped DKSN 026151 through

firms as underwriters and bond counsel." It is a

18

19 20

21 22

026154.

1 And I would like to direct your attention 2 to the first three boxes that are -- we will look at 3 it together. The document, the chart has four different columns that read "period," it says "lead 4 5 underwriters," "other underwriters" and "bond 6 counsel." And then in each box it has information 7 that pertains to the heading. 8

And in the first three rows, I guess, the 1978 AHDA is the first one, 1979, 1980 AHDA is the second one. 1981-1982 AHDA is the third one and it purports to list -- appears to list the underwritings that were undertaken by AHDA during the time period and then under "other underwriters," there doesn't appear to be a listing for Lasater & Company.

Until you get here.

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Until you get to '83-84, and I just wanted to ask you if that's consistent with your recollection as to the participation Lasater &

19 Company had on these bond underwritings?

20 This is when Hutton had done the issue I 21 had talked about that put the agency in so much 22 jeopardy and then Blythe Eastman and PaineWebber came

122

in, with George K. Baum, which was B-a-u-m.

Is that consistent with your recollection that Lasater didn't start participating until 1983?

Α That would be about right.

O Thank you.

Did Lasater & Company have involvement with private activity bonds that are associated with ADFA?

8 Not to my knowledge. Do you mean like 9 industrial development? Not to my knowledge. 10

0 Correct?

I know there was a pool of securities that were sold, but I don't know if we ever did that. I'm not -- I don't recall us ever doing that.

14 Okay. We were discussing earlier 15 Mr. Lasater's relationship with Governor Clinton. 16 And I wanted to show you another document. Bates 17 stamp DKSN 027573 through 027574. And it is a letter 18 on the Lasater & Company letterhead, dated February 19 15, 1985, addressed to Governor Clinton, and it is 20 signed by Dan R. Lasater.

21 I want you to take a moment to review it 22 and show it to your counsel and let me know when you

1 have had a chance to look at it and I will ask you 2 couple of questions.

(Witness reviewed the document.)

- A Okay, I read these, this letter.
- O The first question is, have you seen this letter before?
 - I don't recall ever seeing this letter. Α
- If I can direct your attention, I would like to direct your attention to the second page.

The second paragraph there reads, "in addition, we 10

11 would be more comfortable if you would take the opportunity or ask someone on your staff to take the

12 opportunity to apprise me or my staff of any actions 13

by you or your staff prior to any public

announcements so that we will not be surprised or in 15 16

some instances embarrassed because of the

announcements." 17

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Do you know if that kind of relationship ever existed with the governor's office and Lasater & Company?

No. I don't. Α

Did you ever -- were you aware that that 0

124

request was made?

- Α I don't recall being aware of that.
- Q Did that request surprise you in any way?
- Does it now surprise me? Α
 - Sure, now. O

6 Well, I don't -- I don't know what context

this was written in. I don't know what he means by

"public announcements" or "embarrassing situations,"

so I -- if he was embarrassed by a public 9

10 announcement, and he wants prior knowledge, that would not surprise me. I would want that, too. 11

Do you know if that had to do with having advance knowledge of bond offerings or projects that were going on?

I don't know what that refers to. Next I would like to direct your attention to the following paragraph which reads "finally, I believe it would serve us both well to have regularly monthly meetings between the two of us to discuss the 20 effects of the economy on Arkansas. Bill, I do not ask for this to have undue influence or to try to

22 apply undue pressure to you or your administration,

- 1 but because of my background in business, I believe
- 2 that I can make a positive contribution to you in
- 3 your efforts to promote a better climate in the state 4 of Arkansas."
- Are you aware that -- were you aware that this request was made to the governor by Mr. Lasater?
 - A No.

7

- 8 Q Do you know if that request was granted by 9 the governor?
- 10 A I don't know.
- 11 Q Would meetings of that frequency be
- 12 consistent with your understanding of their
- 13 relationship in that time period?
- 14 A I don't know if I would characterize their
- relationship as one in which they would have much in the way of meetings to discuss specific issues.
- 17 Q Do you know if they had meetings to 18 discuss --
- 19 A I have no idea.
- 20 Q Did Mr. Lasater ever go to the governor's
- 21 mansion to have meetings with him to discuss issues
- 22 of meaning to him?

126

- A Dan did go to the mansion and I don't know what he talked about. He told me he went to the mansion. I don't know what they talked about.
- 4 Q Do you know how frequently he went over?
- 5 A No.

- 6 Q Have you ever been told how frequently he 7 went over?
 - A No, I have never been told.
- 9 Q Are you aware of specific instances where
- 10 he went over there, to the mansion?
- 11 A I am familiar with one that we went to
- 12 together. It was a reception for -- it was a
- 13 reception for some entertainer or someone who was
- 14 coming to Little Rock, and the press was there and we
- 15 were there, and that's all I recall about it. It
- 16 wasn't a sit-down private meeting with Dan, the
- 17 governor and me to talk about, you know, things that would be contained in that paragraph.
- 19 Q Any discussions about bond business?
- 20 A No
- 21 Q I would like to show you a document now,
- 22 Bates stamped DKSN 027451, a one-page document on

1		,
1	Collins Locke & Lasater stationery dated March 31,	
2	1983, addressed to the honorable Bill Clinton, and	
3	signed David Collins. If you take a moment to look	
4	at that and let me know when you have had a chance to	
5	review it.	
6	(Witness reviewed the document.)	
7	A Okay. I have read this.	
8	Q Have you seen that letter before?	
9	A I don't recall seeing this before.	
0	Q I asked you earlier about whether the	
1	governor had attended Derby Day parties that you had	
2	been to.	
3	A Yes, you did ask me that.	
4	Q And in this letter, there is a mention in	
5	the last paragraph which says "I am looking forward	
6	to welcoming you and Hillary to our Derby Day party.	
7	I hope you will be able to attend."	
8	Does that refresh your recollection as to	
9	whether they attended any Derby Day parties?	
0	A It does not.	
1	Q Is this Derby Day party a party that would	
2	have included Mr. Lasater, as far as you know?	
		128
	A PRINT W 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1	
1	A The one I attended did include Mr. Lasater.	
1 2	Q Did Mr. Lasater or Mr. Collins go to Derby	
2	Q Did Mr. Lasater or Mr. Collins go to Derby	
2	Q Did Mr. Lasater or Mr. Collins go to Derby Day parties together?	
2 3 4	Q Did Mr. Lasater or Mr. Collins go to Derby Day parties together? A I didn't attend this one so I recall	
2 3 4 5	Q Did Mr. Lasater or Mr. Collins go to Derby Day parties together? A I didn't attend this one so I recall them talking about having a Derby Day party for the	
2 3 4 5 6	Q Did Mr. Lasater or Mr. Collins go to Derby Day parties together? A I didn't attend this one so I recall them talking about having a Derby Day party for the Arkansas Derby, which is the last event of the racing	
2 3 4 5 6 7	Q Did Mr. Lasater or Mr. Collins go to Derby Day parties together? A I didn't attend this one so I recall them talking about having a Derby Day party for the Arkansas Derby, which is the last event of the racing season in Oak Lawn. The only one I remember	
2 3 4 5 6 7 8	Q Did Mr. Lasater or Mr. Collins go to Derby Day parties together? A I didn't attend this one so I recall them talking about having a Derby Day party for the Arkansas Derby, which is the last event of the racing season in Oak Lawn. The only one I remember attending was Lasater & Company. Q When does the Arkansas Derby take place? A At the end of the racing season.	
2 3 4 5 6 7 8	Q Did Mr. Lasater or Mr. Collins go to Derby Day parties together? A I didn't attend this one so I recall them talking about having a Derby Day party for the Arkansas Derby, which is the last event of the racing season in Oak Lawn. The only one I remember attending was Lasater & Company. Q When does the Arkansas Derby take place?	
2 3 4 5 6 7 8 9 0 1 2	Q Did Mr. Lasater or Mr. Collins go to Derby Day parties together? A I didn't attend this one so I recall them talking about having a Derby Day party for the Arkansas Derby, which is the last event of the racing season in Oak Lawn. The only one I remember attending was Lasater & Company. Q When does the Arkansas Derby take place? A At the end of the racing season.	
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2 3 4 5 6 7 8 9 0 1 2	Q Did Mr. Lasater or Mr. Collins go to Derby Day parties together? A I didn't attend this one so I recall them talking about having a Derby Day party for the Arkansas Derby, which is the last event of the racing season in Oak Lawn. The only one I remember attending was Lasater & Company. Q When does the Arkansas Derby take place? A At the end of the racing season. Q Which is? A In the spring. Q Would it have been in and around March 31? A It would have been later than that, around	
2 3 4 5 6 7 8 9 0 1 2 3 4 5	Q Did Mr. Lasater or Mr. Collins go to Derby Day parties together? A I didn't attend this one so I recall them talking about having a Derby Day party for the Arkansas Derby, which is the last event of the racing season in Oak Lawn. The only one I remember attending was Lasater & Company. Q When does the Arkansas Derby take place? A At the end of the racing season. Q Which is? A In the spring. Q Would it have been in and around March 31? A It would have been later than that, around Easter, around the time the azaleas are in bloom. It	
2 3 4 5 6 7 8 9 0 1 2 3 4 5 6	Q Did Mr. Lasater or Mr. Collins go to Derby Day parties together? A I didn't attend this one so I recall them talking about having a Derby Day party for the Arkansas Derby, which is the last event of the racing season in Oak Lawn. The only one I remember attending was Lasater & Company. Q When does the Arkansas Derby take place? A At the end of the racing season. Q Which is? A In the spring. Q Would it have been in and around March 31? A It would have been later than that, around Easter, around the time the azaleas are in bloom. It is usually in April. Depends on how many racing	
2 3 4 5 6 7 8 9 0 1 2 3 4 5 6 7	Q Did Mr. Lasater or Mr. Collins go to Derby Day parties together? A I didn't attend this one so I recall them talking about having a Derby Day party for the Arkansas Derby, which is the last event of the racing season in Oak Lawn. The only one I remember attending was Lasater & Company. Q When does the Arkansas Derby take place? A At the end of the racing season. Q Which is? A In the spring. Q Would it have been in and around March 31? A It would have been later than that, around Easter, around the time the azaleas are in bloom. It is usually in April. Depends on how many racing days. They change every year.	
2 3 4 5 6 7 8 9 0 1 2 3 4 5 6 7 8 8 9	Q Did Mr. Lasater or Mr. Collins go to Derby Day parties together? A I didn't attend this one so I recall them talking about having a Derby Day party for the Arkansas Derby, which is the last event of the racing season in Oak Lawn. The only one I remember attending was Lasater & Company. Q When does the Arkansas Derby take place? A At the end of the racing season. Q Which is? A In the spring. Q Would it have been in and around March 31? A It would have been later than that, around Easter, around the time the azaleas are in bloom. It is usually in April. Depends on how many racing days. They change every year. Q I would like to have you take a look at a	
2 3 4 5 6 7 8 9 0 1 2 3 4 5 6 7 8 9	Q Did Mr. Lasater or Mr. Collins go to Derby Day parties together? A I didn't attend this one so I recall them talking about having a Derby Day party for the Arkansas Derby, which is the last event of the racing season in Oak Lawn. The only one I remember attending was Lasater & Company. Q When does the Arkansas Derby take place? A At the end of the racing season. Q Which is? A In the spring. Q Would it have been in and around March 31? A It would have been later than that, around Easter, around the time the azaleas are in bloom. It is usually in April. Depends on how many racing days. They change every year. Q I would like to have you take a look at a two-page document Bates stamped DKSN 027455 and	
2 3 4 5 6 7 8 9 0 1 2 3 4 5 6 7 8 9 0	Q Did Mr. Lasater or Mr. Collins go to Derby Day parties together? A I didn't attend this one so I recall them talking about having a Derby Day party for the Arkansas Derby, which is the last event of the racing season in Oak Lawn. The only one I remember attending was Lasater & Company. Q When does the Arkansas Derby take place? A At the end of the racing season. Q Which is? A In the spring. Q Would it have been in and around March 31? A It would have been later than that, around Easter, around the time the azaleas are in bloom. It is usually in April. Depends on how many racing days. They change every year. Q I would like to have you take a look at a two-page document Bates stamped DKSN 027455 and 027456. It's a letter on Lasater Farm letterhead	
2 3 4 5 6 7 8 9 0 1 2 3 4 5 6 7 8 9	Q Did Mr. Lasater or Mr. Collins go to Derby Day parties together? A I didn't attend this one so I recall them talking about having a Derby Day party for the Arkansas Derby, which is the last event of the racing season in Oak Lawn. The only one I remember attending was Lasater & Company. Q When does the Arkansas Derby take place? A At the end of the racing season. Q Which is? A In the spring. Q Would it have been in and around March 31? A It would have been later than that, around Easter, around the time the azaleas are in bloom. It is usually in April. Depends on how many racing days. They change every year. Q I would like to have you take a look at a two-page document Bates stamped DKSN 027455 and	

		129
1	moment to review that and let me know when you have	
2	finished.	
3	(Witness reviewed the document.)	
4	A George Wright was the fellow's name.	
5	Q That was the fellow in the ADFA board you	
6	referenced early this morning?	
7	A Yes, that I couldn't remember the last	
8	name.	
9	(Pause.)	
10	Okay, I read the letter.	
11	Q The first question is, have you seen the	
12	letter before?	
13	A I have not.	
14	Q A couple of specific questions I want to	
15	ask you about.	
16	First of all, you said you personally were	
17	lobbying George Wright; is that right?	
18	A Yes, I did.	
19	Q How did you know George Wright?	
20	A I met George when he was appointed to the	
21	board.	
22	Q You didn't know him previously?	
		130
1	A No, I did not.	
2	Q Did Mr. Lasater know George Wright?	
3	A It is my recollection he did not. George's	
4	appointment was largely regarded as one brought to	
5	the fore by Doobie Sullivan. I could be mistaken,	
6	but that's my recollection.	
7	Q Do you have any more specific recollection	
8	than that?	
9	A No.	
10	Q First full paragraph on the second page,	
11	says "with regard to the board of the Arkansas	
12	Housing Development Agency, it is our understanding	
13	that the chairmanship rotates annually. Based on	
14		
15	this understanding, we would like to recommend our	
15	mutual friend George Wright for the chairmanship.	
16	mutual friend George Wright for the chairmanship. George has expressed an interest in the chairmanship,	
16 17	mutual friend George Wright for the chairmanship. George has expressed an interest in the chairmanship, and I believe he would take the time and devote the	
16 17 18	mutual friend George Wright for the chairmanship. George has expressed an interest in the chairmanship, and I believe he would take the time and devote the energy necessary to do a good job."	
16 17 18 19	mutual friend George Wright for the chairmanship. George has expressed an interest in the chairmanship, and I believe he would take the time and devote the energy necessary to do a good job." Were you aware that Mr. Lasater made that	
16 17 18 19 20	mutual friend George Wright for the chairmanship. George has expressed an interest in the chairmanship, and I believe he would take the time and devote the energy necessary to do a good job." Were you aware that Mr. Lasater made that recommendation?	
16 17 18 19	mutual friend George Wright for the chairmanship. George has expressed an interest in the chairmanship, and I believe he would take the time and devote the energy necessary to do a good job." Were you aware that Mr. Lasater made that	

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131
    saving it is beyond -- I just don't know. I don't
 1
    remember it, but I could have.
 2
             And just seeing that expression, "recommend
 3
    our mutual friend George Wright," does that refresh
 4
    your recollection as to how they knew each other or
 5
 6
    that they were friends?
 7
             You mean was George a friend of Bill's?
8
             Of Dan Lasater.
        0
             I knew George when he was appointed to the
9
        Α
    board. I don't recall him and Dan being friends, but
10
    they could have been. As I recall, George is from
11
12
    Hope and certainly Governor Clinton -- I would not
    expect him to appoint someone he didn't know and
13
    trust. It could be that Dan knew him, but I don't
14
    know that he did. Do you have any idea how long he
15
    was on the board at that time, had been on the
16
17
    board?
             I wouldn't want to --
18
        Q
19
        Α
             I am just saving.
20
             You are putting me on the spot.
             It is likely that Dan would know him.
21
        Α
            MR. COLE: You can put him under oath.
22
                                                           132
            MR. FEINSTEIN: If you want to go off the
 1
    record to try and do that, that's fine.
 2
 3
            MR. O'CALLAGHAN: It is not that critical.
            THE WITNESS: If George was a member of the
 4
    board, Dan knew him. Dan made a point of knowing
 5
 6
    those people. And --
 7
            BY MR. O'CALLAGHAN:
 8
             Did Mr. Wright ever express an interest to
 9
    you in the chairmanship of the FDHA board?
             Not that I recall.
10
11
             Did you recommend him as a possible
12
    candidate for chairman?
13
             I could have. I could have. But I don't
14
    remember doing it, but I could have.
15
             He made recommendations to the governor
    with regard to people for AHDA board or
16
    chairmanships, and the ADFA board and chairmanship,
17
18
    did he typically run that by you first?
19
             It depends.
20
            If it was -- if it was a board or
     department head that had a direct bearing or indirect
21
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bearing on our business, he would. He -- and many

- 1 times I would take the ideas to him when he was not 2 aware of it, that there was a vacancy, clearly with 3 the insurance commissioner there was one, with the 4 securities commissioner, obviously, and all the 5 boards and commissions we tried to have as much 6 influence as we could. 7 So, for like every ADFA board vacancy he 8 would make a recommendation for, he would consult 9 with you before making that recommendation? 10 I don't know if I would say that. I would 11 say that he would probably consult with me more than 12 not 13 Anyone else he would have consulted with other than you? 14 15 Α He would have consulted with Patsy. 16 Patsy Thomasson? 0 17 Yes. And at the time Rick Knox was the 18 president of the company, he would have consulted 19 with Nick. 20 MR. FEUER: May I ask a question on that 21 letter before we move off of that? 22 MR. O'CALLAGHAN: Sure. 134 1 EXAMINATION 2 BY MR. FEUER: Mr. Drake, do you see a sentence in the 3 4 second page of that letter, page 27456, the paragraph 5 that begins "during the recent special session"? Do 6 you see a sentence I am going to quote from the 7 letter, "we would like to recommend Michael Drake, 8 vice president of public finance at Lasater & 9 Company, to serve on the commission"? Do you see 10 that sentence? 11 Yes, I did. Α 12 0 Did you serve on the --13 Α I did. 14 0 You did? When was that? What year was 15 that? I would just guess it was the spring of 16
- 17 '84. This letter is dated December 14. I remember it was in the spring, so I will say it was '84. And 18 19 it was chaired by Senator Ben Allen, and all the 20 investment firms in Little Rock, as I recall, had a 21 member appointed to that commission. 22 I guess I should make clear which

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1
    commission --
2
        A It was a public school finance commission
    is what I recall it being named. It was a commission
3
    to study alternatives to -- this is when the
4
5
    education reform was occurring in the administration.
    and in Arkansas. We had hundreds of school districts
6
    and we were considering pooling credit ratings to
7
    issue securities and then loan the money to the
8
9
    districts instead of having the inefficient sale of
10
    300 different securities every year, among other
11
    things.
12
13
             Actually, I have one more question on this
14
    document. Just the first paragraph it says dear
15
    bill, it was a pleasure to see you yes at the hot
    springs Christmas to share program; did you attend
16
17
    that?
             I did not. I don't know what it is.
18
        Α
19
             Mr. Drake, did you ever hear that ADFA was
20
    used as a means for laundering money for any reason?
21
             No.
        Α
22
             Never heard that?
        0
                                                           136
1
        A No. I haven't heard that one.
2
             Did Mr. Lasater ever mention to you any
        0
    money washing or laundering that he might have done
 3
    through ADFA or any other means?
4
 5
        Α
             No. sir.
            MR. O'CALLAGHAN: Can we go off the record
 6
7
    for a second.
 8
            (Discussion off the record.)
9
           (The reporter read the record as requested.)
10
            (Discussion off the record.)
11
            MR. O'CALLAGHAN: We are back on the
12
    record. While we were off the record, we had the
    last question reread, and counsel, would you like to
13
14
    make a clarifying statement.
15
            MR. FEINSTEIN: Yes. Maybe the best way to
16
    do it is just to ask the question. Having heard that
    last question reread, was it your understanding that
17
18
    the question was limited to any money washing or
19
    laundering involving ADFA?
            THE WITNESS: Yes.
20
21
            BY MR. O'CALLAGHAN:
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Q Going back to the police radio bond

137 1 underwriting, I would like to get back to -- you said that your first contact was with Bob Snyder and Paul 2 3 Young at T.J. Raney? 4 Right. 5 0 Approximately two years before the offering 6 took place or --7 It was before the offering took place, and 8 before the legislation was passed enabling the 9 structure of the deal. 10 Did they ever tell you how they got wind 11 that this type of financing might be coming up or 12 that they were looking to do a financing of this 13 nature? 14 Α They did. To the best of my recollection, 15 it was discussed in a committee meeting, either the -- excuse me, either the house or the senate or 16 17 it appeared in a newspaper article and they picked up 18 on the need to do the financing. 19 Was it a common practice for the police 20 commission to do bond underwritings? 21 I was not aware of them ever doing a bond 22 underwriting prior to that date. They had no 138 1 published credit rating. I don't know of any that 2 they had done before that. 3 Do you know where the idea for doing a bond 4 underwriting to finance this project came from? 5 A It came from Paul and from Bob. 6 Did you participate in helping draft the 7 legislation in connection with -- the legislation 8 that enabled the offering? 9 Α Yes. 10 0 What role did you have? 11 Mine was limited to the cash flow source. 12 and the security of the cash flow being dedicated to 13 the repayment of the bonds. But our lawyers drafted 14 most of the language. I was just -- I was in a 15 comment kind of mode. 16 And your lawyers were with what firm? 0 17 Mitchell, Williams, Selig, Jackson, et al. 18 And I might point out one thing. We specifically 19 chose that firm because they had no prior contacts

underwriting contracts, to my -- at that time, with 21 22 anybody, that is a prolific issuer of bonds. We

with any other agencies. They had no bond

139 wanted a fresh look, so we went to them. John Selig 1 was a former securities commissioner and they had --2 3 their constitutional law department was top rated. 4 so --5 0 You mentioned earlier Mr. Young and Mr. --6 A Snyder. 7 -- Snyder also indicated that one of the 0 8 reasons they favored the firm was because they had 9 also helped out Mr. Clinton during '80-'82? Who? 10 Α 11 O The firm. Lasater? 12 Α 13 O No, I thought you said the law firm had as 14 well. 15 Α No. I said --16 MR. FEINSTEIN: Hold on. 17 MR. COLE: I don't understand the question. 18 MR. FEINSTEIN: I am not sure there is a 19 question pending. 20 MR. FEUER: It is a different firm. 21 MR. FEINSTEIN: I want to be sure we have a 22 clear question before you say anything. 140 1 MR. FEUER: I think you will find it was a 2 different law firm. 3 THE WITNESS: It was Wright Lindsey 4 Jennings that was favorable to Bill. That was the 5 firm he used to work for. 6 BY MR. O'CALLAGHAN: 7 They were not used? Q 8 Α Yes. 9 That's precisely the question I meant to 10 ask. I apologize. 11 MR. FEINSTEIN: And that's what you weren't 12 supposed to say until you said it. 13 THE WITNESS: That's two mistakes I have 14 made today. 15 BY MR. O'CALLAGHAN: 16 O Who made the decision to take on the 17 Mitchell, Williams firm?

A Although I had a relationship with them and local I could have referred them, but Paul had a very close

suggested it. I'm reasonably sure it was them.

Was there specifics --

I am pretty sure it was Paul and Bob that

18

1 relationship with Ann Ritchie and John Selig and 2 liked them, both really competent securities 3 attorneys.

4 You said one of the areas was identifying 0 5 cash flow source; is that right?

A Yes.

6

7

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15 16

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20

13

O Could you explain to me what that means?

Right. The constitution of the state of Arkansas states that without special legislation no securities can be issued without a vote of the people. I mean, it has to be a general obligation issue.

Arkansas citizens are very adverse to debt securities, so we came up with a method that would enable the State Police Commission to buy this radio equipment by dedicating a specific source of revenue from the general fund to this purpose, and that it was only tied to the rehire of the bonds. We began researching where we might find the moneys and avoid violating the constitution of the state, so that was

21 the source we came up with. 22

And that was a license renewal?

142

1 Right. They redeemed special revenues 2 instead of general.

3 Who did you work with to do the research 4 into this issue?

5 I worked with the state treasurer's office. 6 with the state treasurer, Jimmie Lou Fisher, I 7 worked with Bob Nash in the governor's office. I 8 would have worked with someone at DF&A, but I don't 9 recall who it was. Department of Finance and 10 Administration. It didn't take us long to identify 11 the revenue source, though, 12

Was there ever any thought given to having ADFA issue these bonds?

14 I don't remember. There could have been, 15 but I don't remember. I don't know if ADFA was 16 empowered to do that at the time. As I recall, we 17 had to -- it would take an amendment to the ADFA 18 legislation, and I think I also recall that there was 19 no specific revenue source and ADFA was prohibited 20 from issuing securities without an identified revenue

21 source. They couldn't issue GO bonds and there was

22 no source of revenues for the police bonds.

1 But --MR. COLE: So the record is clear. 2 Mr. O'Callaghan asked you initially if there was any 3 consideration given to ADFA issuing the bonds and I 4 believe I heard -- I understood you to say that you 5 didn't recall that, but then the next information you 6 gave us would indicate that there was some 7 8 consideration, so I am a little confused. 9 THE WITNESS: I don't recall consideration going to ADFA, because they weren't empowered to do 10 it, as I remember. 11 MR. COLE: But someone at least looked into 12 13 the possibility that they could at least do it or you 14 knew that without --THE WITNESS: I don't remember that. We 15 could have looked into it, but most of it -- at the 16 time, as I recall, we had just come out of the 17 session that ADFA was part of the economic 18 19 development package and we were all very familiar with what they could and couldn't do. 20 21 But, we could have. It's -- it's something 22 that could have occurred. I just -- it is a long 144 1 time ago. MR. FEINSTEIN: You don't have any specific 2 3 recollection that that did occur? 4 THE WITNESS: No, but I can't say that it 5 didn't. 6 BY MR. O'CALLAGHAN: 7 This may be of assistance. I hope this adds value to the discussion. I am going to show you 8 9 a document multipaged, 17 pages, Bates number DKSN 017877 through 017893. The first section says "bill 10 for an act to be entitled." I will read the title of 11 12 this, and I will let you look at it. It says "an act to authorize the 13 acquisition, installation and operation of a 14 statewide radio communication system for the use of 15 the Arkansas State Police, authorizing the 16 construction, equipping and operation of buildings, 17 18 other facilities for the purpose of housing inmates committed to the custody of Department of Correction 19 and for the purpose of construction, equipping and 20

operation of facilities for the expansion of the

prison, agriculture and industry programs,

145 1 authorizing issuance of revenue bonds for the 2 financing thereof, providing for the payment and security of such bonds, including the pledging of 3 various fees, and for other purposes." 4 5 Look at that. 6 (Witness reviewed the document.) 7 MR. FEINSTEIN: Is there something of 8 specific importance you want him to look at? 9 BY MR. O'CALLAGHAN: 10 The second page, it should become 11 apparent. 12 A I have never seen this. 13 MR. FEINSTEIN: Do you want him to read the 14 whole thing? 15 MR. O'CALLAGHAN: No, if he has seen the 16 second page, that should do it. MR. FEINSTEIN: He hasn't asked you a 17 18 question vet. 19 BY MR. O'CALLAGHAN: 20 The first question, have you seen this 0 21 before? 22 A I don't recall seeing this before. 146 1 Does this refresh your recollection as to 2 whether ADFA had been considered as being the issuing 3 entity for the police radio bonds? 4 No. it doesn't. 5 Thanks. Do you recall approximately when 6 it was that Mr. Snyder and Mr. Young approached you 7 about first putting together this deal? 8 Α What time of the year? 9 What year and what month. 0 10 I don't. I'm sorry. 11 O Was the subject of the police radio brought 12 up in the January 10 -- or at the meeting at the 13 Legacy Hotel, do you recall, which I believe took place January 10th? 14 15 January 10th, '8 --O '85. 16 17 I don't remember it coming up. 18 Other than discussions you might have had with Bob Nash with regard to the identifying the cash 19 flow source, did you have any other discussions with 20

21

22

him with regard to this offering?

MR. COLE: "This offering" being the police

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radio?
 1
 2
            MR. O'CALLAGHAN: Correct.
3
            THE WITNESS: No. We -- I worked with Bob
    in the legislative process because it was part of his
 4
 5
    responsibility, but I don't recall talking to Bob
    about the issuance of the securities, the actual bond
 6
7
    issue.
8
            BY MR. O'CALLAGHAN:
9
             Did you talk to anyone else in the
    governor's office about the police bond issue?
10
             I talked to Betsey Wright about the
11
12
    legislative process, about getting the stuff --
    getting the act passed.
13
14
        O Were any other firms involved in speaking
    with the governor's office about getting the act
15
16
    passed?
17
             That I don't know.
        Α
18
        O Considering it had been in process and how
19
    the -- how that worked, looking back on it, would it
    make sense that other firms would be working to get
20
    the legislation passed? Do you have any idea?
21
            Well --
22
                                                          148
 1
            MR. FEINSTEIN: Object to the form of the
 2
    question.
 3
            If you can answer it without speculating,
 4
    go ahead.
 5
            THE WITNESS: My answer would be we didn't
    advertise that we were doing this. You know, it was
 6
 7
    T.J. Raney and Lasater & Company that had come up
 8
    with the idea.
            BY MR. O'CALLAGHAN:
 9
            Did there come a time when the commission
10
11
    asked for competitive bids?
12
        Α
            Yes.
13
             And when did that occur?
        O
14
            After the act was passed, and it became
     law. I will say in that following summer. I don't
15
    know if there was an emergency clause on it or not.
16
     Seems like it was in the summer. I don't recall
17
     exactly the month.
18
19
            MR. FEINSTEIN: Read that back.
20
           (The reporter read the record as requested.)
21
            BY MR. O'CALLAGHAN:
22
        Q When did the Hutton/Lasater/Raney group
```

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149
    make its first proposal to the financing of the
 1
2
    police radio bonds?
 3
             I remember it being -- the process was to
4
    submit proposals based on the RFP, and then we were
    invited to make oral presentations, and I -- I don't
 5
6
    remember exactly the dates or the times, but I
7
    remember we all made them on the same day, at the
8
    State Police Commission, in the state police
9
    headquarters.
10
             Did the Hutton/Raney/Lasater group make any
11
    proposals before that?
12
        Α
             I don't remember.
             You said it was your always idea and
13
        0
    whether -- I am trying --
14
             You know, I -- I don't remember exactly
15
16
    what we did. But I do remember talking with Colonel
    Goodwin about -- who was at the time the head of the
17
18
    police, the state police, about the financing, and it
19
    seems to me that he told us that it would be handled
20
    by state purchasing. We were going to have to talk
    about the state purchasing rules at Exlerban,
21
    E-x-l-e-r-b-a-n department. And his aid is Dudley
22
                                                            150
    Miles
 1
2
             I am going to show you a document. This
 3
    might help refresh your recollection. I probably
    should have shown it to you before I asked the last
4
    question. It is Bates stamped DKSN 017894 through
 5
    017904, and the first page, T.J. Raney & Sons,
 6
 7
    E.F. Hutton and Lasater across the masthead, February
    25, 1985, addressed to Colonel Thomas Goodwin.
 8
 9
    director, Arkansas State Police, and it is re: state
    police communications financing.
10
11
             I will have you take a look at that
12
    generally. Let me know when you have had a chance to
13
     look at it.
14
        Α
             Okav.
15
        0
             Yes.
            (Witness reviewed the document.)
16
17
             Oh, I am familiar with this.
        Α
18
             You have seen this before?
        0
19
             Yes. I have.
        Α
20
             What does that document represent?
        0
21
             It is a proposal to Colonel Goodwin
```

regarding the financing of the state police

151 communications system. 1 And was this submitted before the RFPs went 2 out? 3 4 Ves 5 O How did that come about? I think we just submitted it. I think we 6 Α just gave it to him. I don't remember exactly why we 7 did it, but I think we just did it. Here we are, we 8 9 are ready to go. Did you get any response? 10 I don't remember what the response was, 11 other than I know what we ended up with a request for 12 13 proposals and so I would just assume that it was 14 turned down. 15 MR. COLE: Before we leave, can I ask a 16 clarifying question on this topic? Do you know whether for this particular 17 financing that was being contemplated that's the 18 subject of that February 1985 document, whether there 19 was a requirement that a RFP process be followed? 20 THE WITNESS: I -- I don't know if there 21 22 was, if there was requirement or not. 152 MR. COLE: So you have no reason to believe 1 2 that had they chosen to do so, that the state authorities could have gone with the sole source, 3 4 essentially, contract procedure. THE WITNESS: Well, they sole sourced the 5 6 equipment, and Motorola was the only company that had 7 the technology that they wanted. 8 But we ended up going through competitive 9 proposals, and I remember at Exlerban being involved in that in evaluating and making recommendations on 10 all that stuff and purchasing. I don't know why they 11 did it. I don't remember exactly why. 12 13 MR. COLE: You don't know whether it was legally required or whether it was just to get the 14 best services possible from the state? 15 THE WITNESS: I don't know. 16 MR. O'CALLAGHAN: Off the record. 17 18 (Discussion off the record.) 19 BY MR. O'CALLAGHAN: 20 I would like to show you a document Bates stamped DKSN 017800. It's an one-page document with 21

handwritten notations on it. This is 3-4 top left

1.50

```
153
 1
    corner, Paul Young, M. Drake, John Selig, Mahlon,
 2
    Joe, Mike G. Take a moment to review that and let me
 3
    know when you are finished.
 4
            (Witness reviewed the document.)
 5
             Okay, I have read this.
 6
        0
             Have you ever seen that document before?
 7
        A I don't recall it.
 8
        0
            Do you recognize the handwriting?
9
        A
             No, I don't.
10
             Do you -- are you familiar with the
        0
11
    contents of the notes?
12
             Ves
        Α
             And what is written down there? What does
13
        0
    it represent?
14
             This is the structure of the -- the bare
15
    nuts structure of the financing that was eventually
16
17
    done.
18
             The names that are listed on top, do you
        0
    recognize all the names that appear there?
19
20
             Paul Young was obviously with Raney, that's
    me, John Selig, Mahlon Martin would have been head of
21
    Department of Finance Administration, Joe, don't know
22
                                                          154
    who that could have been. Mike G., don't know who
 1
 2
    that could have been.
             Is that maybe Michael Gaines? Did you do
 3
 4
    any work on him?
 5
             It could have been Mike Gaines, right. It
 6
    could have been Michael Gaines.
 7
             And who is Michael Gaines?
        O
 8
             He was the staff guy responsible for the
 9
    state police department.
10
        0
             For whom?
11
             For the governor.
        Α
             And what kind of involvement did you have
12
        0
13
    with him?
14
            MR. FEINSTEIN: With respect to this
15
     proposal?
            MR. O'CALLAGHAN: Correct.
16
            THE WITNESS: I need a minute to think
17
18
     about that. I hadn't thought of Mike Gaines in
19
     years.
20
            BY MR. O'CALLAGHAN:
21
         0
             Take your time.
```

My involvement would have been as a

22

Α

liaison, possibly in the legislative process, aswell. But clearly a liaison to the state police.

Q Do you know specifically what his responsibilities were?

5 No. Generally he was responsible for legislative issues by the state police, and since 6 most -- all the departments had a liaison, Mike was 7 the liaison. He was the governor's office liaison to 8 9 the state police department, and I think also the 10 corrections department, at that time, if I am not mistaken, which is why we put corrections in that 11 12 legislation.

Q In the draft I showed you earlier?

A Yes.

3

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11 12

15 Q So you had worked on that draft, do you 16 think, the one I showed you earlier?

17 A No, I am saying I think that's why that 18 appears in there, because Mike's ultimate 19 responsibility was for the corrections, something in 20 corrections. I don't remember exactly what it was.

21 I don't know whose handwriting that is.

Q Do you recall at what point a determination

156

was made to open the process to bidding for other firms?

A I don't remember what point it was.

Q Were there any specific discussions that addressed that that you were part of?

A I don't recall any.

Q Did you hear of any discussions involving taking steps to open up the bond underwriting to bidding?

A I don't recall any.

Q Who would have made that decision to open up the process to bidding?

A To bidding. It could have come from the state police administration. It could have come from the State Police Commission. It could have been an administrative decision. I don't know. There are a variety of ways it could have come out like that. I don't know. The final legislation may have contained

don't know. The final legislation may have contained that provision in that. I don't know.

20 Q Did you attend any State Police Commission executive meetings or meetings?

22 A Yes.

157 How many of those would you say you 1 2 attended? 3 Α At least two 4 Which two do you remember attending? 0 5 I remember attending the one where we made Α 6 an oral presentation, and I remember the one when we 7 wrapped up the deal, closed the deal. 8 How many firms gave oral presentations? 9 I know of three groups including our 10 group. I remember Stephens being there. Dabbs 11 Sullivan was there. I don't recall anyone else 12 except those three firms, but there may have been 13 others. 14 0 Do you recall whether First Capital was there also, First Capital Resources? 15 16 A I don't recall Clayton Brown? 17 0 18 As a group? Α 19 Correct. · O 20 No, I don't recall that, but it is not surprising if they appeared together. 21 22 Just to show you a multipage document, 158 Bates stamped DKSN 0271889 through 027191, the 1 2 minutes of Arkansas State Police Commission meeting. May 10, 1985, take a minute to look at that. See if 3 4 it refreshes your recollection as to how many firms 5 put bids in. 6 Okay, I have read this, this first and Α 7 this. 8 Was it consistent with your recollection that there were four firms that made oral 9 presentations? 10 11 Α Yes. 12 Directing your attention to the second page, "order of presentation," underneath that, 13 "presentation proposals"? 14 15 Right. Α 16 Under that first paragraph, Dabbs Sullivan, 17 Stephens, First Capital Resources, T.J. Raney, 18 Lasater & Company. Do you know how that order was 19 determined --20 Α No. 21 -- for proposals? O

22

Α

No.

159 Did T.J. Raney and Lasater request to get a 1 proposal in that order or any time during the 2 meeting? 3 4 Α I don't remember. But if I had been there, 5 I would have asked to go last. 6 Why is that? 7 The last impression. I want them to forget Α 8 everybody else. Thanks. 9 0 That's sales. 10 Q Did anyone in the governor's office have 11 any contact with anyone at the State Police 12 Commission regarding the selection of the 13 underwriters for the radio underwriting project? 14 Not to my knowledge. 15 Do you have a general understanding of how 16 underwriters for the police bond underwriting were 17 18 chosen? 19 Α Yes. 20 How did that come about? What criteria 0 21 were analyzed? 22 All the firms were asked to submit 160 proposals. All the finalists were asked to submit 1 financing proposals which went beyond just saying, 2 3 well, we are going to do this deal, we are going to sell this many bonds at this kind of interest rate. 4 We were asked to give them net interest cost 5 assumptions, maturity schedules, net present value 6 7 analyses. Johnny Mitchum, who was on the commission, was an actuary or is an actuary and conducted his own 8 9 independent analysis. 10 He was an actuary? A It is my understanding he was an actuary, 11 or he hired an actuary. Maybe he is a CPA and he 12 hired an actuary. I remember him saying he had an 13 14 actuarial analysis. 15 Do you know if a man named John Meyers 16 might have been hired as an actuary? 17 No. I know Johnny is a CPA. I know the word "actuary" was mentioned. I don't know if it was 18 19 Johnny or somebody else. 20 With regard to the finalists who were asked 21 to give the proposals --

A To what?

161 The finalists that were asked to give the 1 2 proposals that you just described, was that the four 3 firms we just referred to --4 Α Yes 5 -- as finalists? 0 6 Α Yes. 7 0 I have a document here, multipaged, with Bates stamped DKSN 017144 through 014167. Take a 8 look at that and let me know if that's the proposal 9 10 offered as part of the final four presentation. 11 I remembered this one: I do not know what 12 the other ones looked like. 13 You mean for the other firms? 14 I didn't see them. The other proposals, as 15 I recall, were -- they were all submitted confidentially, and we were not permitted to be in 16 the room when the firms made their oral 17 18 presentations. 19 Did you receive copies of other proposals? 20 I don't remember doing that at all. We 21 may -- I may have, but I don't remember it. I don't 22 remember it. This has not varied at all from -- it 162 look likes the same thing we submitted earlier in the 1 2 vear. 3 To your recollection, did you have -- more 4 specific -- did you have the benefit of seeing other 5 proposals before submitting yours? Not to my recollection, but we may have. 6 7 It may have been public record. 8 This document is dated April 22, 1985. 9 Do you recall if that's the day that you 10 delivered it or the group delivered a proposal? 11 I don't recall what day it was. A 12 0 Is it usual practice to deliver documents 13 the day they are dated? 14 Yes, it is very typical. Do you recall what -- how this document was 15 O 16 delivered to the State Police Commission? 17 A No. I don't.

Q Do you know if it was in the morning or the afternoon or the evening?

Do you know what time of day it was

18

19 20 Q D delivered?

Α

No. I don't.

- 163 1 A No, I don't remember. It could have been 2 any of the above. I don't remember. It was 11 years 3 ago. 4 I appreciate your trying. Q I just don't remember. 5 Α 6 0 I take it the Lasater/Hutton/Raney group 7 ended up -- they were awarded the contract for the 8 police radio underwriting? 9 Α That's correct. Why were they granted the underwriting 10 11 versus the other groups? Do you know, were there reasons given why their proposal was accepted over 12 13 the others? My recollection is that we made a superior 14 Α 15 proposal. 16 0 Superior in what way? 17 First of all, we had the strength of E.F. Hutton as a national distributor of securities. 18 19 Secondly, the structure of the transaction, being 20 certificates of participation rather than outright 21 debt instruments, it was unique in the history of the 22 state. 164 1 Did any other groups offer that type of 2 mechanism? 3 I don't know. I don't remember. 4 Third, we had been instrumental in creating 5 the idea, developing the legislation, finding the cash, and we were very intimate with the -- with the 6 7 deal. I mean, it was a logical award. 8 Q Okay, just following something you 9 testified earlier about, problems that ADFA had with 10 Hutton. Did that come up as an issue with this 11 commission? 12 Not the ADFA problems with Hutton but 13 Hutton was having problems in other areas at that 14 time. 15 0 Was the Hutton issue with AHDA ever brought 16 up that you are aware of? 17 You know, it could have been. What I remember more distinctly is the check kiting thing 18 that was going on at the time with Hutton. That was 19 in the news and that was all over the Wall Street 20
 - Journal at that time, and it was very serious.

 O At the time when Lasater and Raney first

joined up with Hutton, had that -- had the checkkiting issue been around?

A Not to my knowledge, it hadn't been -- it hadn't been -- the indictments hadn't been, you know, released or distributed, or whatever do you with indictments.

That all seemed to hit right at the end, as I remember it.

Q Right before the proposals?

A Yes, well, during the deliberations, that issue was raised by two or three of the commissioners.

Q Just to clear up on the ADFA problems that Hutton had, did the police commission or anyone in your group confer with ADFA about problems they had had with Hutton?

A I can't -- I don't know if the police commission did or not. I didn't talk to ADFA about it because I was aware of it. I knew that this old guard of Hutton employees had let the ADFA down, and that it was -- the commission and the staff, the

22 commissioners and the staff -- actually had let AHDA

1 down.

4 5

ADFA, by the time this rolled around, if I
am not mistaken, had a whole new set of
commissioners, and the staff had changed, you know,
just -- but I was very -- it was very clear in my
mind about the problem that they had.

O Did you consider that when entering into

Q Did you consider that when entering into this group?

A You bet I did, yes.

Q And were you able to reconcile yourself?

A Here's what -- Raney brought the idea of Hutton to us.

What we wanted to make sure we had was a strong national distributor of securities; this was a major financing. As I think I've mentioned earlier, Paul Young, and Bob Snyder, had developed a very close working relationship with the Houston office of Hutton public finance, which covered our region.

And, there was a guy named Dave
L-a-v-e-l-l-e, Lavelle, who worked for Steve
Claiborne, the fellow whose name appears in that
proposal, and they wanted to -- they wanted to bring

Hutton in, because of the -- it would help them 1 2 encourage Hutton to put them in more deals outside the state. And it was just a guid pro guo and they 3 said okay, if it passes the smell, s-m-e-l-l, test, 4 5 we will do it.

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The concerns that were raised by Hutton by the commissioners, were those allayed in any way?

I remember the presentation that Steve Claiborne made to the commission, and he began his presentation by talking about that issue. And he talked about it being a nonpublic finance, or a security distribution related issue. It was a back office issue: it was an administrative issue.

And they hoped that it didn't diminish the 15 commissions's enthusiasm to have a national 16 underwriter, and it didn't.

17 In the proposal that was made and finally 18 accepted, with regard to the police radio underwriting, was the group successful in maintaining 19 the rate, the bid they had made, for financing a 20 21 project, or did the price stay the same, or --

I don't know. I don't remember if it did

168

or not. I would have to look at the information.

2 I do know that we were in a time of rising 3 interest rates. I do know that any time a negotiated 4 transaction is put on the table, it is only that 5 transaction that, if it has a long lead time, is only as good as the market remains in the same relative 6 position, that the proposal was made in. 7

So if all things are equal, the market doesn't change, then we would have achieved what we proposed.

11 I do know -- I do remember during the offering that we forced an underwriting, that means 12 we made the members take down these bonds, and we 13 14 lost money on that, on the takedown. So, I don't 15 know if we -- if we were able to achieve the same 16 rate that we had told the commissioners that we thought the deal could go, if it went dead, or if it 17 18 was substantially higher or substantially lower, I 19 just don't remember.

Did you ever hear that there were any talk that people on the street were of the opinion that

Lasater & Company and Raney and Hutton were giving a

low ball figure on the bid with the expectation they could raise it later?

A I don't remember that ever being -- that accusation ever being made, no.

Q You never heard about it?

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A I don't remember it ever being made.

I want to just add something.

This was not a competitive bid process.

We -- a negotiated transaction, and a competitive bid

transaction are two separate types of vehicles.

If it was a competitive bid transaction

If it was a competitive bid transaction, we would have had an envelope that we would have delivered to the chief financial officer, that it was said we buy these bonds at this rate today, we own them.

They weren't prepared to issue securities the day that they chose their underwriters. They were prepared to engage a firm or a series of firms who had an understanding of the transaction, who thought that they could put it together at the best

20 thought that they could put it together at the b 21 interest rate possible, who could distribute the

22 securities over a wide market, who would maintain a

170

market, a secondary market in those securities.

The bonds, as I recall, the bonds weren't issued for a period of time on down the road, so the question of whether or not it was a low ball or a high ball is really not relevant to the decision to hire these firms in my judgment. Although a lot of folks made a big deal out of it, you know, that was not, to me, a major consideration; it still isn't.

Q When you say a lot of folks made a big deal about it, what are you referring to?

A A lot of the people who complained about us getting the business also advanced the theory that they had a better overall net interest cost.

they had a better overall net interest cost.

I remember Stephens's representatives
showing up at a legislative meeting that occurred
somewhere after the bonds were approved, or maybe it
was before the bonds were sold, trying to get the
decision of the State Police Commission overturned
because they thought their rate was better than
ours. And rate was really irrelevant. If it had

21 been a sealed bid, it would have been relevant but it

22 wasn't.

171 I am going to need to take a break. 1 2 MR. FEINSTEIN: I was going to suggest 3 maybe we take five minutes. 4 MR. O'CALLAGHAN: Sure. 5 (Recess.) MR. O'CALLAGHAN: Let's go back on the 6 7 record. BY MR. O'CALLAGHAN: 8 Let me show you a multipage document -- I 9 will direct you to a specific portion so you don't 10 have to look at the whole thing -- minutes of the 11 meeting of the Arkansas legislative council, dated 12 Friday May 17, 1985, and we were just talking about 13 the differences between the Lasater/Hutton/Ranev 14 proposal and the other firms that made proposals. 15 16 I want to direct your attention to the 17 fourth page of this document, which the Bates stamps run from DKSN 027211 through 027222, and I would like 18 to have you look at the first full paragraph on that 19 page. It is a page noted as page 4, and if you could 20 21 take a look at that and read it. I believe it's a statement made by one of the competitors' proposal. 22 172 1 It is the fourth page. 2 Starts at the bottom. Sorry, beginning on the third page, 3 starting at the bottom. 4 Do you want me to read the whole page? 5 No, just the first paragraph. 6 O 7 Α Okav. 8 I wanted to ask you about comments made by 9 Neal Hertenstein of Clayton Brown. It appears there was a -- they had a problem with the way that the 10 financing -- timing of the payments were set up with 11 the Hutton/Raney/Lasater proposal. Could you 12 13 describe to me what the differences were between your proposal and the other proposals with regard to that 14 aspect? 15 16 Α I can't. I don't remember. But -- I just can't. If I could read them again I could tell you. 17 Q Specifically, he mentions here that in a 18 statement before the legislative council that with 19 regard to first payments being made, payments being 20 made on a monthly basis versus proposals made by 21

Hutton/Raney/Lasater to make them on an annual and

173 1 semiannual basis. Does that refresh your 2 recollection as to how you set it up? 3 No. I would like to -- Hertenstein was 4 just angry he didn't get the business. Everybody 5 wanted the business. We collected the -- when we 6 were -- when the stay disbursed which was monthly, so I mean, that was just -- he was mistaken. 7 8 So you are saying your proposal didn't 9 allow -- didn't state it would be annual and 10 semiannual payments? 11 On the securities, it probably did. 12 Okay. Do you have any recollection as to 13 whether that was a deferment of the first payment 14 until 13 months after the initial offering --15 I don't remember Α 16 O -- as a benefit to the state? 17 Α I don't remember. H-e-r-t-e-n-s-t-e-i-n. 18 0 I believe he was with Clayton Brown which 19 is First Capital; is that correct? 20 Yes, sir. 21 MR. FEUER: Michael, may I ask one 22 question? Mr. Hertenstein was a competitor of yours 174 1 for the State Police Commission underwriting 2 contract: is that correct? 3 THE WITNESS: Yes. 4 BY MR. O'CALLAGHAN: 5 O Did the State Police Commission ever invest 6 any funds with Lasater & Company, do you know? 7 In what way? I don't know what you mean. 8 Securities or bonds, did they invest 9 capital through Lasater & Company as an agent or 10 broker/dealers? 11 I don't understand the question. 12 MR. FEINSTEIN: You mean as if they opened 13 an account to invest like any other investor? 14 THE WITNESS: Not to my knowledge. Except 15 this deal? Except the state police radio deal? 16 BY MR. O'CALLAGHAN: 17 Not including that, just generally 18 investing money in an account at Lasater & Company. I don't think so. I don't recall it. 19 20 0 Do you know -- did the -- let me restate 21 it.

Did the State Police Commission invest any

- 175 of the money from the license renewal fees that they 1 2 received in any security accounts that you are aware 3 of? 4 In any securities accounts? 5 0 Correct. 6 Yes. A 7 MR. COLE: Before the witness goes further 8 with his answer, or before there are further 9 follow-up questions, I don't understand the relation of this line of questioning to the subject matter set 10 11 out in Senate Resolution 120. 12 MR. O'CALLAGHAN: Generally, because I 13 don't know whether the state commission invested in 14 any securities, any securities from the funds that 15 were derived from the license renewal, to find out 16 whether any of the funds were either directly or 17 indirectly put with Lasater & Company to show whether there was any relationship between the way the deal 18 19 was financed and whether there was any consideration 20 given to the groups that were doing the underwritings. 21 22 MR. COLE: So you would be looking at --176 1 you are asking for testimony or information about 2 other business dealings between the State Police 3 Commission and Lasater & Company, because you believe they may be related in some way to the state police 4 5 bond offering transaction? 6 MR. O'CALLAGHAN: That's what the question 7 is meant to --8 MR. COLE: As long as the witness 9 understands. I think if that were the case, that 10 would be reasonable. 11 I don't think that this resolution gives us 12 authority to do any kind of broad inquiry into 13 Lasater & Company's business or even the business of 14 state agencies with Lasater & Company. This 15 resolution is quite limited as to the principal scope of inquiry. 16 17 MR. O'CALLAGHAN: To the extent they were 18 in business together and whether that related or 19 resulted in any additional businesses, is what the
- 21 THE WITNESS: As far as I know, the only 22 additional business was the investment of the bond

question meant.

177 1 proceeds in securities between the time the bonds 2 were actually delivered and funded, and the time that 3 they were making outlays for equipment. As far as I 4 know, that was it. 5 BY MR. O'CALLAGHAN: 6 What was the period of time --7 I don't remember that. Longer than 30 8 days. 9 MR. COLE: That was an arrangement that was 10 contemplated with the original financing structure of 11 the transaction? 12 THE WITNESS: Yes, ves. Those were 13 income-generating securities that you take out of cash and put in, and they have to meet certain state 14 requirements of rating and liquidity and government 15 16 backing, no risk. 17 MR. COLE: Essentially a cash management 18 function. 19 THE WITNESS: Exactly, yes. Yes. 20 MR. COLE: Thank you. 21 BY MR. O'CALLAGHAN: 22 Q With regard to all the services that 178 1 Lasater & Company provided in connection with the police radio underwriting, how much income or capital 2 3 did that create for the company? 4 I don't know. 5 MR. COLE: If I understand that question, 6 that's a fairly technical question in terms of income 7 and capital. 8 MR. FEINSTEIN: Let me note an objection, 9 just for the record, that it is ambiguous. He already said he doesn't know so I guess we can move 10 11 on. 12 THE WITNESS: It would be a back office 13 function. I wouldn't know that. When all the bonds 14 were sold and we got reimbursed for expenses, I mean, 15 it is an accounting function. I wouldn't know that. 16 I don't have any idea. 17 BY MR. O'CALLAGHAN: 18 Do you have any idea whether it was 19 generally profitable for the firm? 20 I can tell you Mr. Lasater was on my rear

end constantly to sell bonds because the interest

rates were going up. We had purchased them at a

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level and we had to underwrite -- we owned the bonds at that level and we had a huge inventory, and every day that interest rates went up we lost money.

So from that perspective, it was not a very profitable deal.

MR. COLE: Is the point of that, if the bonds have a stated interest rate and if market interest rates rise above the price -- I'm sorry, rise above the level of the stated interest rate of the bonds, then the price of the bonds will drop so the amount you are able to sell the bonds for is

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THE WITNESS: Exactly.

MR. COLE: So your cost is fixed but the return that you obtain from selling the bonds diminishes?

THE WITNESS: Your risk, right. BY MR. O'CALLAGHAN:

Q Okay, and is that a consistent environment with the rates rising or did they level off at any point, do you know?

A No. They kept going. Hutton called a

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1 meeting of the co-managers on the telephone, and 2 informed us that we had about \$9 million worth of 3 bonds left that were not sold and we couldn't reprice 4 them.

5 So we underwrote the bonds, we took them 6 down, we all got 3 million. The market kept going 7 away from us and we started selling them at any price 8 to get rid of them. The state got their money. But 9 we started losing our -- as I mentioned to you earlier, our takedown and our concession because the 10 11 market kept moving away from us, and that -- I think it would be fair to say that, that's easily 12 13 documented by looking at bond rates, you know, the week that we took the bonds down.

week that we took the bonds down.
 Q And what type of management fees did the
 company receive?

A I don't remember.

Q Do you remember if they got a certain percentage? Did they get a certain percentage? Was it an equal percentage with all three or was it graded?

A I don't remember. It would -- I don't

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    remember. It would be in the official statement
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            Was the bill that authorized this
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    underwriting that House Bill, was it 944? Do you
 4
    recall the number?
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        A I don't recall the number.
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        0
             Okay. Do you remember the number of the
 7
    act?
 8
             No. I don't remember any of that stuff.
        A
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        Q Let me show you a document Bates stamped
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    DKSN 018193 through 018199.
            It is entitled "a bill for an act to be
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12
    entitled 'an act authorizing the leasing of
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    communications equipment for the department of the
14
    Arkansas State Police providing for the payment and
15
    security of the costs of the equipment, and for other
    purposes.'"
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17
            Take a moment to review that. I am going
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    to ask you some very general questions about that.
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             That's the act. I am familiar with this.
        Α
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        0
             Act 817?
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        Α
             Right.
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        O
             When the act was first introduced as a bill
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    to the state legislature, did it meet any opposition
 2
    when it was first introduced to the legislature?
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             I don't remember that it did.
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            MR. O'CALLAGHAN: Let's go off the record
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    for a second.
 6
            (Discussion off the record.)
 7
            MR. O'CALLAGHAN: Back on the record.
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            BY MR. O'CALLAGHAN:
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        Q I want to show you again the minutes of the
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    May 17, 1985 council meeting. And on the Bates page
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    DKSN 027216, "the following role call vote was then
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    taken on the main motion by Senator Hoofman, to give
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    favorable advice to the state police commission
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    recommendation on the financing proposal submitted
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    for the acquisition of the new communications network
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    and the motion failed of adoption (14 for and 12
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    against), with 16 votes being necessary for
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    passage."
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            Is that just saying -- what I was reading,
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    does that refresh your recollection that it
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    originally failed when introduced?
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             Well, may I -- this is a -- let me make
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1 sure I have this right. These are the two different 2 steps: the act was approved, and then this is 3 approving the state police commission's action, so this is not reflective of whether the act was 4 5 controversial or not.

Do you know what I am driving at?

So the proposed financing that was authorized by this bill was what was voted down by legislature; is that correct?

10 No. This bill was a noncontroversial 11 bill. It had no opposition. I think it was -- I don't recall exactly, but it seems to me that it was 12 13 almost an act of treason to vote against the state 14 police. I mean, that's what this act did, it is 15

going to help protect state troopers.

Commission to the legislative council.

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What the legislative council did in May was review and provide advice and consent to the State Police Commission of their decision to engage our group, not whether or not they liked the act. The act had already been enacted into law, so that is a reflection of the report of the State Police

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1 What was your understanding as to why the 2 legislative counsel voted down the proposal to employ 3 your group? 4

I don't remember. I have to read it.

MR. FEINSTEIN: I might point out, to

clarify a little bit, there is a reference on this page 27213 which is from the minutes to the

8 legislation having been passed in 1985 session

concerning the financing method. So that's 9

consistent with what he just said. That may have

11 been uncontroversial and there may have been some 12 controversy regarding how the commission was going to

13 implement it.

> THE WITNESS: That's how I recall it. The legislation was not a controversial issue.

BY MR. O'CALLAGHAN:

On May 17th, after the legislature did not endorse the award to the Hutton/Raney/Lasater group for the underwriting, were you asked to take any steps to put together materials to convince the legislature to award the contract to you?

I don't have any recollection of doing

that. 1

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2 Did anyone from the governor's office take 0 any steps to help push through the awarding of the 3 contract to your group? 4

> Not to my knowledge. Α

6 0 Did Governor Clinton meet with any state 7 legislators on this matter?

8 I don't know.

9 Have you ever heard that he did? 0

10 No Α

11 While you were working at Collins Locke & 12 Lasater, and Lasater & Company, were employees there 13 encouraged to give contributions to political 14 candidates?

15 Α

16 What was the nature of the encouragement 17 that they received? 18

It was not uncommon for candidates for public office to appear at the shop, and for them to be accompanied by one of the owners of the firm to the trading floor, a room much like this, where they would stand behind the trading desk. And there would

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be a 10-minute speech, this is so-and-so, running for 2 such-and-such, we like him or her.

We will appreciate any support you could give them. And sometimes there would be a memo about a fundraiser or a dinner or -- it took many forms, many forms.

Were you ever personally contacted, either in person or by phone, by any of your superiors and encouraged to contribute to particular candidates?

Yes.

11 MR. COLE: Mr. Drake, before you answer 12 again, I have the same question I had before about 13 the relevance that's set forth in Resolution 120: that is, the ADFA contracts between Lasater & 14 15 Company.

MR. FEINSTEIN: I join in that inquiry.

MR. O'CALLAGHAN: Sure, if you want, I can specifically ask about contributions requested to be made to Governor Clinton's campaign, gubernatorial inaugurals.

MR. COLE: Well, do you have some linkage that you can articulate between political

contributions generally, whether to Governor Clinton or other politicians in Arkansas, and the subject matter that's set forth in this resolution, the underwriting contracts between ADFA?

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MR. O'CALLAGHAN: Whether they had any relationship with respect to the ADFA bonds on the contract

MR. COLE: I am happy to have you ask that question. Political contributions for Arkansas politicians was not included in the resolution after considerable negotiation among the Senators.

MR. O'CALLAGHAN: I was trying to lay a foundation and I was going to specifically ask -- I wasn't going to go into regional candidates or anything of that nature.

MR. COLE: I wouldn't object to questions that are specifically tied to the ADFA contracts and the way you articulate it, but I would object to a more general inquiry.

MR. O'CALLAGHAN: I will tell you, I am not going to necessarily limit it to his specific knowledge of whether contributions were linked to

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1 ADFA contracts, but rather, I think it is more 2 helpful and instructive to get a foundation as to 3 what the practices were, and whether political contributions in general were being sought at and 4 5 encouraged, and then from there on, to make inquiries 6 as to whether or not they had any impact on the 7 granting of the ADFA contracts.

MR. FEINSTEIN: I think you are over the first hurdle. He has already described generally what the atmosphere was.

MR. O'CALLAGHAN: I don't think we will have any problems.

BY MR. O'CALLAGHAN:

You were discussing or describing the means through which employees were asked or encouraged to give contributions, and you discussed the people coming to the firm and giving speeches, also memos addressing fundraisers and dinners. Then I asked you about personal requests or recommendations that may have been made. I wonder if you could answer that question?

MR. FEINSTEIN: Personal requests to him?

189 MR. O'CALLAGHAN: Correct, or from any of 1 2 the principals in the company. 3 THE WITNESS: Yes, I was -- I was, at Lasater I was, at Stephens, and I was, at Morgan 4 5 Keegan, always asked by my owners to consider contributing to various political candidates. 6 7 BY MR. O'CALLAGHAN: 8 While employed at Lasater, were you asked 9 to contribute to any of Governor Clinton's campaigns 10 or inaugurals? 11 Yes, ves, I was. Α 12 What were the forms of those requests? 0 13 Some were verbal, some were over the telephone, face to face, some were over the 14 15 telephone, some were here are four tickets to the 16 inaugural at \$200, or whatever they were, have a good 17 time. 18 MR. COLE: Mr. O'Callaghan, I would suggest 19 that a more appropriate way to pursue this within the 20 bounds of the resolution would be to ask the witness if he ever had any discussions with anyone at Lasater 21 22 about political contributions, and the ADFA contracts 190 or even political contributions and obtaining bond 1 2 underwriting business from the state. Then at least 3 you've linked the query to what the resolution permits us to investigate. But generally inquiring 4 about political contributions, I think is just too 5 6 broad a query for this resolution. 7 MR. O'CALLAGHAN: I am going to disagree 8 with you on that. I don't want to limit myself to 9 his specific knowledge as to whether contributions 10 that he was asked or other people were asked to give, 11 where it is specifically tied to ADFA contracts, 12 that's something we will have to determine after looking at all the facts. I think limiting the 13 14 inquiry that unnecessary way, you are hamstringing 15 our ability to investigate the facts and understand 16 how the contracts and the relationships worked. MR. COLE: Well, I think it is really 17 18 incumbent upon you under the resolution to make some

effort either through timing as to the timing of the

business came into the firm clearly is off limits.

contributions -- for example, I think even you would

agree that contributions taking place before the ADFA

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191 1 MR. O'CALLAGHAN: Certainly. 2 MR. COLE: There are limits. 3 MR. O'CALLAGHAN: I would be happy to do 4 that. That's no problem. 5 MR. COLE: Just in doing your job as a 6 lawyer here, you have to make some effort to tie 7 yourself to the subject matter of Resolution 120 on 8 this record. 9 MR. O'CALLAGHAN: Thank you. 10 BY MR. O'CALLAGHAN: 11 Q I am happy to limit it to between the years 12 1982 and 1986. I think that's generally when you were working at Collins Locke & Lasater and Lasater & 13 14 Company and I believe that's what we were discussing. 15 16 Now, with regard to the verbal requests, 17 you said some were face to face. Who made these 18 requests to you? 19 MR. FEINSTEIN: Before you answer that, we 20 have had -- I think we need to, at least for me, for my benefit if not for the witness's, we need to 21 reestablish the context. Are you asking about 22 192 1 requests specifically related to particular 2 candidates? 3 BY MR. O'CALLAGHAN: 4 I limited it to Governor Clinton in the last question, so if you could address that that 5 6 would be great. 7 I was asked by Dan Lasater, I was asked by 8 the president of our firm, Rick Knox, I was asked by David Collins, and I asked others and was glad to do 9 10 it. 11 With regard to Mr. Lasater's request, could you identify to me when those took place and what the 12 13 specific requests were? 14 I don't know when they took place, day and 15 year. They were typically for a contribution, either to the reelection campaign, or to attend a 16 17 fundraiser, or to buy a ticket to an inaugural event, or to help raise money in general, which I was 18 19 delighted to do. 20 To do fundraising? Q 21 Α Yes.

Were you ever asked specifically to write

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193 checks for Governor Clinton's gubernatorial campaign? 1 2 Α 3 How about for his inaugurals? 0 4 I don't remember that. 5 Over the course of your employment there. 6 how many times would you say Mr. Lasater asked to you 7 contribute to Governor Clinton's, either his campaign 8 or his inaugurals? 9 I am going to answer that question this 10 way: I contributed as much as I could afford to 11 contribute legally to every campaign Bill Clinton 12 ever ran, with or without Dan Lasater's 13 encouragement. And will continue to. 14 Q Were you ever told you would be reimbursed 15 by the firm for contributions? 16 A Yes. 17 0 And how was that stated, presented? 18 There were instances when we were -- when 19 this gentleman would come to the firm, and we would 20 be working, and the announcement would be made, we 21 want to raise so many dollars for this person while they are here. We can take it right out of your 22 194 paycheck, no problem, if you are willing to do that. 1 2 Anybody want to do that? Go back to work. That 3 simple. Checks were cut either to us which we 4 endorsed or right to the candidate as I remember. 5 Okay, maybe I didn't articulate my question 6 well. 7 I was trying to elicit -- and I will be 8 happy to limit this to Governor Clinton's campaigns 9 and inaugurals. Were you ever told by the owners at 10 the firm that, after being solicited for campaign 11 contributions, that the firm would reimburse you for 12 your campaign contributions? 13 I don't remember that happening. 14 MR. COLE: I think we need to note for the 15 record, I heard your prior answer the same way 16 Mr. O'Callaghan did. And I think he asked you 17 essentially the same question and you said initially 18 yes, and then gave an answer --19 MR. O'CALLAGHAN: That's why I asked again. 20 MR. FEINSTEIN: I think he misunderstood or

misheard your term "reimburse." What he described on

the record doesn't meet your definition of

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195 1 reimbursement. Can we agree on the record? 2 MR. O'CALLAGHAN: Yes. 3 MR. FEINSTEIN: In other words, you were 4 still out the money. 5 THE WITNESS: Yes. They never did that. They never did that, to my knowledge. Never did it 6 7 for me anyway. 8 MR. O'CALLAGHAN: I would like to take a 9 two-second break because Lance. I would like to talk to you for a minute. Similar issue as we had before, 10 11 something I wasn't aware of. 12 (Discussion off the record.) 13 BY MR. O'CALLAGHAN: 14 This is going back to somewhat of a 15 different subject that we discussed earlier, your knowledge of the governor's relationship with Dan 16 17 Lasater 18 Α Okav. 19 And I just wanted to ask you about your knowledge about whether or not the Clintons made use 20 21 of Mr. Lasater's aircraft or jet? This is again 22 during the time period '82 through '86. 196 1 Clintons, plural? Α 2 Either the governor or his wife 3 Mrs. Hillary Clinton. 4 I don't recall exactly when it occurred. 5 It was -- Dan made his airplane available to the 6 governor, if it was necessary that he get somewhere quickly, as did Stephens Inc., as did others. Tyson 7 8 Foods, AP&L. We did it as a courtesy. 9 This was during 1982-'86 period? 10 During my employment there. A How did you become aware that this offer 11 0 12 had been extended? 13 I don't remember. Did the governor ever take him up on that 14 15 offer? 16 I don't know. Α Did you ever fly in the plane with either 17

Did the Clintons maintain any accounts at

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21 22 one of the Clintons?

No.

Lasater & Company?

I don't know.

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1436 197 1 Did Madison Guaranty Savings & Loan have 2 any accounts at Lasater & Company? 3 I don't know. 4 Did you have any dealings with Sam Bratton 5 in the governor's office in connection with the 6 police radio bond underwriting? 7 I knew Sam. I don't recall if I -- it seems like I did talk to Sam about the -- the 8 9 legal -- just a minute -- the act that enabled the system to be financed. As I recall, that was Sam's 10 11 area of responsibility, to review legislative initiatives. And I do recall meeting with Sam to 12 13 talk about that. B-r-a-t-t-o-n. 14 Do you recall substantive discussions? 0 15 Α No. I don't. 16 Did he have similar responses to Michael 17 Gaines, or did they differ? As I recall, Sam's job was to review 18 19 legislation that may or may not be a part of the 20 governor's package of initiatives that he submits to the legislature routinely. And that was his job, to 21 evaluate those to make sure they are constitutional 22 198 1 and blah, blah, blah, blah. So I don't recall 2 him having any liaison responsibilities at all. MR. O'CALLAGHAN: I would like to take a 3 4 two-minute break. I am getting ready to wind up. I might have one or two questions, and then I will --5 Minority can do some follow-up. After that, I might 6 7 have some follow-up also, but why don't we go off 8 right now. 9 (Discussion off the record.) MR. O'CALLAGHAN: Actually I have no 10 11 further questions at this time. So I want to thank 12 you for your responses. THE WITNESS: You're welcome. 13

EXAMINATION

BY MR. FEUER:

Q Mr. Drake, let me introduce myself again.
My name is Mitchell Feuer. I am a counsel on the
Minority staff of the Senate Banking Committee. And
for purposes of this deposition I am going to be

20 asking you questions on behalf of the Minority

21 members of the Senate Special Committee on Whitewater

22 and related matters.

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1 I expect that many of the areas I will 2 cover will be repetitive of what we've already covered today, and I apologize in advance for that, 3 but unfortunately the way this is structured, I don't 4 think it can be avoided entirely. And I may jump 5 around a bit in order to try to cover as much ground 6 7 as possible in a shorter period of time, given the 8 lateness of the hour.

Did Collins Locke & Lasater make money on the bond underwriting it did for the Arkansas Housing Development Agency?

A Very little. Very little, if any.

12 And did Lasater & Company make money on the 13 bond underwriting it did first for the Arkansas 14 Housing Development Agency, and later for the 15 Arkansas Development Financing Authority? 16

Very little, relative to other

18 transactions.

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19 And of the profits that the firms made from that bond underwriting, was some of that -- did some 20 21 of that derive from management fees and some of it derive from sales commissions? 22

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1 Α Yes 2

What are management fees? 0

A management fee is a portion of the gross spread that is allocated to the people actually responsible for putting the deal together, arranging for the legal documents to be written, develop the official statement, do the legwork to get the deal ready to go to market. And that's typically a

percentage of that spread, a small percentage of that 9 10 spread.

11 And do the underwriters receive management fees regardless of whether they eventually sell the 12 13 bonds to investors? 14

If they are a manager or co-manager they do.

> O What is a sales commission?

17 That is the part of the gross spread that's provided to the salesmen to encourage -- and women to 18 encourage them to sell the securities. It is how 19 20 they earn their money.

21 And with respect to the sales commission, 22 the ability of an underwriting firm to earn those

sales commissions depends on the firm's abilities tosell the bonds being unwritten to investors?

A Absolutely.

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Q And in the bond underwritings that I've just asked you about, for the AHDA and the ADFA, what share of, first, Collins Locke & Lasater, and then, Lasater & Company's compensation came from management

8 fees and what share came from sales commissions?
9 A It varied. Let me answer it this way: The

A It varied. Let me answer it this way: The majority of the income to the firm was derived from sales commissions.

12 Q So the majority of the income to the firm 13 depended on the firm's ability to sell the bonds 14 being underwritten to investors?

A Yes. And to receive an allocation from the senior manager of those bonds which had been sold.

O What is a lead underwriter?

A A lead underwriter is also known as the senior managing underwriter, and that is the firm responsible for the majority of the structuring, dissemination of information, managing the ledger or the blotter, that is keeping track of who sold what;

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and when the particular maturity is oversubscribed,
 soliciting selling group members, typically
 responsible for presentations to the rating services,
 the credit ratings.

Q Does the lead underwriter receive the same amount of compensation as the other underwriters in an underwriting, or does the lead underwriter receive a greater amount of compensation?

A It's usually greater.

Q And in the underwritings for the Arkansas
Housing Development Agency and the Arkansas
Development Finance Authority, what share of the
compensation went to the lead underwriter?

A I would say generally it was at least 50 percent of the management fee, if not more.

Q Went to the lead underwriter?

17 A Yes.

Q And all the other underwriters share the remaining 50 percent of the management fee?

A It varied. If it was a two-tiered

co-management, which was not atypical, it would - for example, you might see Hutton and then Stephens

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1	and Raney and then three more co-managers, it would
2	be allocated according to their standing in the
3	deal.
4	Q So the other underwriters might not have
5	shared equally in the rest of the management fee, but
6	they shared among themselves the management after the
7	lead underwriter received
8	A Correct, by the bracket, the bracket they
9	were in.
10	Q Did Lasater & Company did Collins Locke
11	& Lasater or Lasater & Company ever act as lead
12	underwriter in an underwriting of securities for the
13	Arkansas Housing Development Agency or the Arkansas
14	Development Finance Authority?
15	A Not while I was there.
16	Q Would Lasater & Company have received
17	greater compensation had Lasater & Company acted as
18	lead underwriter?
19	A You bet. Yes indeed.
20	Q Would you have liked for Lasater & Company
21	to have been lead underwriter?
22	A Yes, of course.
	204
1	Q What other firms underwrote securities for
1 2	Q What other firms underwrote securities for the Arkansas Housing Development Agency and the
1 2 3	Q What other firms underwrote securities for the Arkansas Housing Development Agency and the Arkansas Development Finance Authority?
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course, Lasater & Company, T.J. Raney, Stephens,

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205
 1
    Incorporated, Dabbs Sullivan, George K. Baum, Crews &
2
    Associates, Llama Company, A.G. Edwards, and other
 3
    regional firms.
4
            BY MR. FEUER:
 5
            Mr. Drake, I am going to hand you a series
6
    of pages, they are labeled DKSN 026102 through 6124.
    I have stapled them together but I will represent to
7
8
    you that they were not all stapled together in this
9
    manner as they exist in the document production
10
    that's been provided to the Committee.
11
        Α
             Okav.
12
             I am going to direct your attention to the
    first page, 26102, can I read what's -- first let me
13
    ask you, have you seen this document before?
14
15
        Α
             I have not.
16
             Can you read for me the heading at the top
17
    of the first page, 26102?
18
             "ADFA use of other underwriters by total
19
    dollar amount at issue, five periods," I guess that
20
    means five periods on a page.
21
            Yes, I think -- and actually it carries
22
    over to the second page.
                                                           206
 1
        Α
             Okav.
 2
             I direct your attention down to the middle
 3
    of the page. Do you see where it's broken out 1983,
 4
    1984?
 5
        Α
             Yes. I do.
 6
             Do you see Lasater and Collins listed there
 7
    under 1983, 1984?
 8
        Α
             Yes, I do.
9
             Do the numbers next to Lasater and Collins
10
    comport generally with your recollection of how much
11
    underwriting Collins Locke & Lasater and Lasater &
    Company did for the ADFA and its predecessor in the
12
13
    vears 1983 and 1984?
14
             That looks about right.
15
             Does this document suggest that --
            MR. O'CALLAGHAN: Could you read that int
16
17
    the record, the amount?
18
            MR. FEUER: The amount next to Lasater is
19
    251,135,000 and the amount next to Collins is
20
    76,365,000.
21
            MR. O'CALLAGHAN: Thanks.
```

BY MR. FEUER:

1441 207 1 Do you see a firm listed as George on 0 2 this --3 Α Yes. Do you have an understanding what George 4 0 5 stands for? 6 Ves Α 7 And what is that? 0 8 That's George Baum & Associates. As I recall, that's the firm, the predecessor to Dabbs 9 Sullivan. 10 And do you also -- do you also see T.J. on 11 O 12 that page? 13 Yes Α 14 Do you have an understanding what that 15 might refer to? 16 That would refer to T.J. Raney & Sons. And what number appears next to both George 17 0 18 and T.J.? 19 327,500,000. Α Is that the same amount that appears next 20 to Lasater and Collins added together? 21 22 Yes. 208 And does that suggest to you that during 1 the period 1983-1984 that the George Baum firm and 2 3 the T.J. Raney firm underwrote the same amount of 4 bonds for the ADFA and its predecessor as did Collins 5 Locke & Lasater and Lasater & Company? 6 Α Yes 7 Do you also see listed there Stephens, 8 Prudential, First Boston, Lazard Freres, Chase, 9 Norwest, and Merrill? 10 Α Yes 11 O Is it consistent with your understanding 12 that those seven other firms also underwrote bonds 13 for the predecessor of the ADFA during that time 14 period, 1983-1984? 15 Α Yes.

21 Yes. Α 22 0 What is municipal finance?

questions on that document.

and municipal finance?

I don't believe I will have any more

Mr. Drake, did you receive a master's

degree from Wayne State University in urban planning

16

17

18 19

It is how -- it is method by which

501(c)(3) corporations raise and manage money, that

1

2

3

4

are municipal entities.

209

Is it fair to say that the municipal 5 finance is a specialized area within the securities 6 industry as a whole? 7 Yes, it is fair. 8 What distinguishes municipal finance or the 9 raising of capital for municipal issuers from the rest of the securities industry? Do different laws 10 11 apply? 12 Yes, different laws, different 13 constraints. Municipal securities are typically tax exempt. They rely upon special identifiable revenue 14 15 streams typically. There are many other differences, 16 but I would say the regulatory end of it is probably 17 the greatest difference. 18 Is it typical that certain securities firms 19 or individuals who work in the securities industry 20 specialize in municipal finance? 21 Α Yes. 22 0 Did David Collins recruit you to work at 210 1 Collins Locke & Lasater? 2 Α Yes, he did. Was that opportunity attractive to you? 3 O 4 Α Yes. 5 0 Why was that? 6 Because I wanted to get out of Memphis. 7 I'm sorry, I just wanted to get home. Well, that's --8 O 9 Α Memphis --10 I have never been there so it raises no 11 problem for me. Is there a member from Tennessee on this 12 13 committee? 14 There was. 0 15 MR. O'CALLAGHAN: In the event this may be 16 published, you may want to be careful how you 17 characterize your relationship with Memphis. 18 THE WITNESS: It's okay. I am not going 19 back there. 20 BY MR. FEUER: 21 Was the opportunity to work specifically at 22 the Collins Locke & Lasater firm attractive to you?

1 Α Yes, it was. 2 0 Why was that? 3 The pay was good; the capital that Lasater told me he was committing to the firm was more than 4 5 sufficient, and they would make -- they were making a 6 commitment to the tax exempt side of the securities 7 business. 8 Q How many employees did the Collins Locke & 9 Lasater firm have at the time you joined? 10 I am going to estimate more than 75 and 11 less than a hundred. 12 What was the net capital of the firm at the 13 time that you joined? 14 As I recall, it was in excess of \$3 15 million. What were the revenues of the firm at that 16 0 17 time? 18 I don't remember. Α 19 Where were the firm's offices located? Q 20 When I joined the firm, it had one office, 21 and that was at 312 Louisiana Street in Little Rock. 22 Did you regard the Collins Locke & Lasater 212 1 firm as having an expertise in municipal finance? 2 After I got there I did. A 3 Had the firm underwritten municipal 4 securities prior to your joining the firm? 5 In one regard, yes. To the extent that the 6 firm joined syndicates that would submit sealed bids 7 for securities, ves. 8 To the extent that the firm was involved in 9 any type of esoteric or creative finance, no; like 10 prolific issuers of those securities, revenue 11 securities, no. 12 Did the number of employees at the firm 13 increase during your tenure at the firm? 14 Yes, it did. 15 How large did the firm become in terms of 16 number of employees? 17 This is an estimate. I would say oh, 18 excluding the office in Florida, maybe 150 to 175 19 people including support staff.

20 While you were employed at the firm, did 21 the firm open other offices beyond the Little Rock 22 office?

1 Α Yes.

2

3

4

5

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18

20

0 And where were they?

Fort Lauderdale, Florida is the only one I recall right off the top of my head. There was a presence in Chicago, too. Presence in Chicago. It was a sales office.

7 Was there a sales office in Atlanta as 8 well?

Α I don't remember one.

I am going to show you a document marked DKSN 001455 through 1467. I believe this is another copy of a document that Mr. O'Callaghan showed you previously -- that is my belief -- with a different set of numbering on it. I am going to direct your attention to page 1466.

A Okay.

Can you read the top of that page for --MR. FEINSTEIN: You want him to read it into the record?

BY MR. FEUER:

Does that say "profile of Lasater &

22 Company"?

214

Yes, profile of Lasater & Company Inc., second paragraph, with home offices in Little Rock, Arkansas. Lasater & Company has more than 150 employees throughout offices in Chicago, Atlanta and Fort Lauderdale.

Does that refresh your recollection as to whether Lasater & Company had an office in Atlanta?

Yes, it does.

Do you have any reason to believe that that 0 was not accurate at the time it was written?

A No. I just don't remember it being there.

Had Collins Locke & Lasater already underwritten bonds for the Arkansas Housing

Development Agency prior to your joining the firm?

I was under the impression they had.

Did the Arkansas Housing Development Agency have a policy of giving underwriting business to Arkansas firms?

19 Α Yes.

What was your understanding of that policy?

21 My understanding was the firms that wanted 22

to participate and met the criteria for selection

		215
1	were selected to become co-managers.	
2	Q And did the Arkansas Development Finance	
3	Authority have the same policy with respect to using	
4	Arkansas firms as underwriters?	
5	A Yes.	
6	Q In April of 1985, did the Arkansas State	
7	Police Commission solicit proposals from a number of	
8	financial institutions regarding financing a proposed	
9	new communications system?	
0	A Yes.	
1	Q How many institutions responded to the	
2	State Police Commission's request for proposals?	
3	A I don't know. I don't remember.	
4	Q Let me show you a document, DKSN 001395.	
5	MR. COLE: Off the record for a moment.	
6	(Discussion off the record.)	
7	BY MR. FEUER:	
8	Q Mr. Drake, have you had a chance to look	
9	over that document?	
20	A Yes, I have.	
21	Q Does that document refresh your	
22	recollection as to how many proposals were received	
		216
1	by the State Police Commission?	
2	A Well, I am reading it here that eight were	
3	received.	
4	Q And those eight were received from?	
5	A Lasater & Company, T.J. Raney, E.F. Hutton,	
6	as a joint proposal, First Capital Resources,	
7	Stephens, Incorporated, Powell & Centerfield, Dean	
8	Witter Reynolds, Equity Resources, Motorola, and	
9	Shearson Lehman Brothers.	
0	Q What process did the Arkansas State Police	
11	Commission use to winnow the proposals that were	
12	received?	
13	A As I recall, the State Police Commission	
14	and the state police staff and a couple of gentlemen	
15	from the purchasing department at the Department of Finance and Administration formed an evaluation	
16		
17 18	committee who took into consideration the proposals that were submitted. They ranked them and they made	
19	a recommendation to the full board.	
20	Q What was that recommendation to the full	
21	board?	
	THIRD IT	

They came up with the short list of

22

Α

```
217
    finalists.
 1
 2
        0
             And who was on the list of finalists?
 3
             Your group which would have been Lasater.
    Hutton, and Raney, Stephens, George K. Baum, and the
 4
 5
    group you mentioned.
 6
            MR. O'CALLAGHAN: First Capital, Clayton
 7
    Brown?
 8
            THE WITNESS: That's it, Clayton Brown.
 9
            BY MR. FEUER:
10
            Now, the proposal submitted by Lasater &
11
    Company was submitted jointly with T.J. Raney & Sons
12
    and E.F. Hutton?
13
        Α
             Yes.
14
        0
            And what was T.J. Raney & Sons?
15
            A whole investment banking firm.
16
            And what was E.F. Hutton?
        0
17
        Α
             An international investment banking firm.
18
             Why did Lasater & Company submit this
19
    proposal jointly with T.J. Raney and with E.F.
20
    Hutton?
21
        A
             Raney solicited Lasater's involvement, and
22
    brought Hutton along as the senior manager.
                                                         218
 1
            Was Lasater & Company's proposal a more
2
    attractive proposal because of the participation of
 3
    T.J. Raney, and E.F. Hutton?
4
            Yes.
        A
 5
        0
             Did --
6
            MR. O'CALLAGHAN: That's your opinion.
7
            THE WITNESS: In my opinion it was, yes --
8
            MR. COLE: Your professional opinion.
            THE WITNESS: -- or we wouldn't have done
9
10
    it.
11
            MR. COLE: He is an expert.
12
            BY MR. FEUER:
13
            Did the participation of E.F. Hutton
    provide for a greater distribution network for the
14
    sale of the bonds should your group win the contract?
15
16
        Α
             Yes.
17
             And would a wider distribution network
18
    enable the State Police Commission to sell those
19
    bonds more cheaply?
20
             Yes.
        Α
21
        Q
             What are certificates of participation?
```

They are securities which represent an

22

A

	219
1	interest in a lease.
2	Q Did your group structure your proposal as
3	certificates of participation?
4	A Yes. The acronym is important, COPs.
5	Q COPs?
6	A Thank you.
7	Q Did you believe that structuring the deal
8	as certificates of participation would make the
9	proposal more attractive to the State Police
10	Commission?
11	A Yes.
12	Q Why did you have that belief?
13	A Because we believed that, through insuring
14	the securities, we could provide a more flexible
15	structure that would deal with technological
16	obsolescence which we were all concerned with because
17	of the Motorola technology, and because it was
18	something unique that the market, we felt, would
19	respond to readily.
20	Q Was your proposal made in the form of a
21	lease/purchase of the radio equipment?
22	A Yes.
	220
1	Q And did you believe that structuring the
2	proposal as a lease/purchase would make it more
2	proposal as a lease/purchase would make it more attractive to the State Police Commission?
2 3 4	proposal as a lease/purchase would make it more attractive to the State Police Commission? A It would. It did.
2 3 4 5	proposal as a lease/purchase would make it more attractive to the State Police Commission? A It would. It did. Q And why was that?
2 3 4 5 6	proposal as a lease/purchase would make it more attractive to the State Police Commission? A It would. It did. Q And why was that? A Well, acquiring a new system outright, to
2 3 4 5 6 7	proposal as a lease/purchase would make it more attractive to the State Police Commission? A It would. It did. Q And why was that? A Well, acquiring a new system outright, to us, appeared to present more risk than a lease which
2 3 4 5 6 7 8	proposal as a lease/purchase would make it more attractive to the State Police Commission? A It would. It did. Q And why was that? A Well, acquiring a new system outright, to us, appeared to present more risk than a lease which had maintenance agreements, it had technological
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2 3 4 5 6 7 8 9	proposal as a lease/purchase would make it more attractive to the State Police Commission? A It would. It did. Q And why was that? A Well, acquiring a new system outright, to us, appeared to present more risk than a lease which had maintenance agreements, it had technological obsolescence agreements, it had more flexibility than an outright buy, because at the time, the state police didn't know where to place the towers; they
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going to ask you if that refreshes your recollection

1 as to the effective cost of borrowing of your group's2 proposal.

A Yes, I am familiar -- this refreshes my memory.

Q And what was the effective cost of borrowing under your group's proposal?

A Based upon market conditions at the time, the borrowing costs were estimated to be 4.4 percent per year.

Q How was the figure of 4.4 percent arrived at?

A It was arrived at by adding the -- well, by making an estimate of the cost of capital per maturity, for the sale of the securities, adding all expense, all debt service, and dividing by bond years.

Q How did that compare to the effective cost of borrowing of the other proposals submitted to the Arkansas State Police Commission?

A I don't remember.

Q Did your proposal contain a debt service reserve fund?

A I believe it did. I am not certain but I believe it did.

Q I am going to direct your attention to the last sentence on page 1456, and ask if that refreshes your recollection that the proposal contained a debt service reserve.

A Yes, yes, it did.

Q What is the purpose of a debt service reserve fund?

A Its primary purpose is to provide a source of moneys to pay debt service on securities. If there is an interruption in the flow of funds that have been predicted to be available to pay interest and principal, it gives an issuer the opportunity to restructure its outstanding debt or to increase its revenues. It is a stopgap. It is a fail-safe. Most rating agencies required it at the time.

Q Did the other proposals contain debt service reserve funds?

A I don't know.

Q Was it your belief that inclusion of a debt service reserve fund would make the proposal more

attractive to the Arkansas State Police Commission?

A It was my conclusion that it would result in a lower interest rate, which would make it more

attractive to the State Police Commission.

Q What was the payment schedule for principal and interest on the money borrowed under your group's proposals.

A I am flipping the page to look. It was a 9-1/2-year deal, with serial maturities, pretty straightforward, interest semiannually and principal maturing annually.

Q Was there a period of time during which the Arkansas State Police Commission would not be required to make principal and interest payments at the beginning of the borrowing period?

Yes. During the construction.

Q And why was the payment schedule structured in that way?

A If I am not mistaken, we capitalized interest during the construction period. Let me just make sure. And we may have had some arbitrage as well, a-r-b-i-t-r-a-g-e. There is no capitalization

of interest. We were using an arbitrage then in which we would take the moneys, invest them in taxable securities that had a yield greater than the tax exempts, as I recall it, and we proposed that the first maturity date be '86. That had to be the reason.

I am just trying to figure out -- I don't know the answer to the question. I am just trying to figure out, to refresh my memory on that.

MR. O'CALLAGHAN: Can I just clarify on that? You said you invested the money in taxable securities. Were those invested through Lasater & Company?

THE WITNESS: Some of them were, yes. MR. O'CALLAGHAN: Not all of them? THE WITNESS: Not all of them.

MR. O'CALLAGHAN: Do you know what percentage?

THE WITNESS: No, I don't.
 MR. O'CALLAGHAN: Thanks.
 THE WITNESS: Let me -- I want to
 elaborate, that all the securities transactions were

approved in advance by the purchasing department of the state of Arkansas.

MR. O'CALLAGHAN: Is that required by the legislation?

THE WITNESS: I believe it is required by law. I don't know if it is required on this enabling legislation. I have to familiarize myself with the structure again before I can answer your question. I am just not that familiar with it anymore.

BY MR. FEUER:

Q Did you attend the meeting of the State Police Commission at which the finalists made the presentations to the commission?

A Yes.

4 5

Q And was it your impression that the other firms, your competitors, had put substantial efforts into developing their proposals and making their presentations the commission?

A I wouldn't know about the presentations. I wasn't permitted to attend. It is my impression that no one worked as hard as our group did developing the proposal from the beginning of the legislation all

the way through to working closely with the staff. But we really wanted this deal and we busted our rear ends to make sure it was the best deal they could get.

I am not aware of what the other people said in their presentations, so I don't know what kind of quality they had. But obviously not as good as ours or they would have gotten the business.

Q Was it your impression that your competitors believed that they had a chance to get the business if they had submitted a superior proposal?

A No doubt in my mind.

MR. FEUER: Let's go off the record.

(Discussion off the record.)

16 (Recess.) 17 BY MR.

BY MR. FEUER:

Q We are back on the record at 7 minutes after 6:00.

What was the Arkansas Housing Development Agency?

A It was an agency created by legislation to

1 provide a vehicle for raising funds from the sale of 2 tax-exempt securities, the proceeds of which would be loaned to banks, who would then loan the funds to 3 eligible first time home buyers, who were certified 4 5 as low- or moderate-income persons.

O Was the Arkansas Housing Development Agency created before Bill Clinton became governor of Arkansas?

I don't know the answer. Α

10 Do other states have -- let me rephrase 0 11 that.

12 During the time period prior to 1985, did 13 other states have agencies that were similar in nature and that performed similar functions to the 14 Arkansas Housing Development Agency? 15

> Α Yes.

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17 Was it common among the states to have such 0 18 an agency?

19 It was becoming more and more common 20 through the '80s for states to provide an alternative source of funding for low-income families to acquire 21 housing because interest rates for taxable loans were 22

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so high at the time that it was impossible -- it was designed to encourage housing for low- and 3 moderate-income families.

O And the use of such agencies was seen as a 4 way of making housing more affordable? Was the use 5 of such agencies seen as a way to make housing more 7 affordable?

A Yes.

9 What was the Arkansas Development Finance 0 10 Authority?

The ADFA was one of the outcomes of then Governor Clinton's economic development initiative that was designed to, in combination with education reform and some other very broad reforms, to assist Arkansas recruit business to the state to improve infrastructure, and to provide a central agency that would be a debt issuing agency for those purposes. Was the ADFA the successor agency to the Arkansas Housing Development Agency?

20 Α Yes.

21 In 1985, had other states created agencies similar to the ADFA; that is, agencies that issued 22

tax-exempt securities for the purpose of stimulatingeconomic growth within a state?

A Yes. In fact it was modeled after legislation from back here in the east somewhere, might have been Massachusetts, or it might have been -- there was a consultant that was hired from this part of the country and he advised that we use that form. The state of Michigan had a similar program, New Jersey has a similar program, Louisiana

has a similar program, all of them before Arkansas.
 Q So the Arkansas Development Finance
 Authority -- was the Arkansas Development Finance
 Authority created in an attempt to achieve the same
 kind of success in Arkansas that other states had
 experienced in their states with similar agencies?

A Yes.

Q Did some of the board members from the Arkansas Housing Development Agency carry over to the ADFA when the ADFA was created?

20 A Yes.

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Q Did Lasater & Company make a presentation in January 1985 to Governor Clinton and his staff at

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1 the Legacy Hotel in Little Rock?

2 A Yes.3 O Was

Q Was that presentation made jointly with

4 E.F. Hutton?

A As I recall, it was.

Q And how was it that Lasater & Company and Hutton came to make that presentation together?

A As I remember it, Hutton was interested in expanding its influence in investment banking circles in the southwest. And they were aligning themselves with firms throughout the southwest, including Texas, Louisiana, Mississippi, Alabama, or in the midsouth, and Arkansas.

And I don't know if they initiated it or if it came from us, but we ended up saying these are the things that we can do together and we would like to be -- we would like the opportunity to present the ideas to you. But I don't know exactly how it came about. It is a long time ago.

Q Did E.F. Hutton have ideas that Lasater & Company did not have?

A Yes, they did. They certainly did.

And did they have a greater distribution 1 network for securities than Lasater & Company had? 2 3 Yes. I want to add that E.F. Hutton was the largest municipal underwriter in the United 4 States during that period of time. In terms of 5 6 volume of deals, in terms of employees, in terms of total deals managed, there was Hutton, and then there 7 was a gap, and then there was somebody else. 8 Did you feel that joining forces with 9 10 Hutton would make for a stronger, more comprehensive 11 proposal? 12 Α Yes. 13 0 Did the Arkansas state purchasing department review the proposal from the 14 Raney/Hutton/Lasater group regarding the financing 15 for the police radio system? 16 17 Yes. 18 And what was their analysis of that 019 proposal? 20 I don't remember what it was. Α 21 Did they make a recommendation to the State 22 Police Commission or to the legislative council? 232 I seem to recall that they did make a 1 2 recommendation to the state police. I don't know if it was to the commission or to the staff. I don't 3 4 remember that. 5 And what was that recommendation? 0 6 Α An affirmative recommendation. 7 0 Did the state purchasing department view the proposal favorably? 8 9 Yes. Α 10 Did you attend a reception at the governor's mansion with Dan Lasater for an 11 entertainer who was visiting Little Rock at that 12 13 time? 14 Yes. 15 How many other people were present at that 16 reception? 17 It was a full house. 75. Less than a hundred, more than 75, lots of folks. 18 MR. COLE: I just have a couple of 19 20 questions. Do you want to follow up? MR. O'CALLAGHAN: Why don't you guys finish 21 up and then I will do mine. 22

233 1 MR. COLE: Mine don't relate to what he has 2 done. 3 MR. O'CALLAGHAN: That's fine, go ahead. 4 EXAMINATION 5 BY MR. COLE: 6 You have been here quite a long time and I 7 would like to do this as quickly as we can. 8 As you know, the record of these 9 proceedings will at some point become public and a lot of people may be looking at this deposition. And 10 11 what I would like to do for people who look at this 12 record and aren't as knowledgeable about the securities business and municipal finance as you and 13 14 Mr. O'Callaghan and Mr. Feuer, I would like to ask a 15 couple of questions to try to get to the real heart of what this committee is looking at under the 16 17 resolution here. 18 And in that regard, is the municipal 19 securities business competitive among the firms that 20 seek that business from municipal issuers? 21 Yes Α 22 0 Would you say it is highly competitive? 234 1 I would say it is highly competitive. 2 Are the terms of the transactions by 3 issuers of municipal securities public through the official statements of those transactions? 4 5 Α Yes, ves. 6 So competitors who do not get the business 0 7 can look at the transaction and evaluate its terms? 8 If it is a public offering, ves. 9 And the ADFA and AHDA transactions we have 10 been talking about today were all public offerings; 11 is that correct? 12 Α Yes. 13 And so if a competitor feels that one of 14 the underwriters or a group of underwriters in a 15 syndicate has somehow taken advantage of the issuer 16 or done something improper, they certainly can 17 complain and make that known to the world; would that 18 be correct? 19 Α Yes. 20 And in fact you testified, I think here

today, that there was one complaint that you felt had

no merit where something like I just described took

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place?

A There were two.

MR. O'CALLAGHAN: Just for clarification, was that with regard to ADFA deals?

MR. COLE: I believe the one that was discussed was police radio.

BY MR. COLE:

Q My only point -- correct me if I am wrong, 9 Mr. Drake -- is these deals are intensely scrutinized 10 and if there is any impropriety or any

11 irregularities, competitors are likely to bring it to

12 the attention of the world; is that correct?

A That's correct.

Q With regard to the issues of securities that we have been talking about today, those by

16 Arkansas state agencies, the Arkansas Development

17 Finance Agency and its predecessor, have the

18 investors received all the payments of principal and

19 interest that they were entitled to receive in those

20 transactions?

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21 A Yes.

22 Q So there have been no defaults?

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1 A No defaults.

Q And no losses to investors from those transactions?

A Not to my knowledge.

Q So the bottom line here is that the investors got their money, and the issuer, that is the state, got fair services for what they paid the underwriters, to the best of your knowledge?

A To the best of my knowledge.

MR. COLE: Thank you, I don't have anything

11 further.

EXAMINATION

BY MR. O'CALLAGHAN:

Q Just so I am clear, I have a couple of quick follow-up questions. You testified earlier, and correct me if I am mischaracterizing testimony, most of the ADFA rates were set by the authority; is that right, for the bidding process, the rates on the offerings?

A No. The way the rates were set was the senior manager would poll the co-managers with price ideas, we call them a price sheet, and then the

- 1 senior manager would then take those price sheets,
- 2 price ideas and propose to prepare them in a fashion
- 3 that the staff at ADFA or the board could

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- 4 understand. This is where the market is, this will
- 5 be your net cost of capital, this is what we can
- 6 deliver, this is the effective rate to the lenders.
- 7 And that's how they would say go do it or wait, and 8 that's how the rates were set.
 - Q Was that before or after contracts were awarded?
 - A That would be after. After the appointment of the -- of underwriters.
 - Q So, would it be fair to say that the main selling point, for underwriters to get this contract, were the level of service and resources they could lend to an offering versus what rates they can come down with?
- 18 A I would say that. I would say that that's 19 true.
- Q Earlier you testified that Lasater & Company made, with regard to AHDA and ADFA transaction that is, made very little money relative

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to other transactions. What did you mean by that? Relative to what transactions, and how would you quantify that?

A Okay, there are secondary market trades which are much more profitable than an original issue sale of securities. There is a -- at the time, the municipal securities rulemaking board, the MSRB, had

municipal securities rulemaking board, the MSRB, I
 guidelines for markups on municipal trades. They

9 were generally limited to between 3 and 5 points. I

was never involved in a transaction with ADFA or AHDA

where the spread was more than 2-1/2 points. They just weren't profitable. We did it to support the

just weren't profitable. We did it to support the agency, and to have a presence.

Q But there was value to the company, being involved in the deals; right?

A Yes, there was value to the business -- value to the involvement.

Q Just to sum up, Lasater & Company's involvement with the bond underwritings and HDA underwritings, the reason for the involvement was to make money; is that right?

A Yes.

239 And they made money doing that; is that 1 right? 2 3 Α Yes. I want to note something, Michael. 4 0 Certainly. 5 If we took the revenues generated from all 6 sources at Lasater & Company and at Collins Locke & Lasater, the overwhelming majority of income was 7 8 derived from taxable securities transactions, Ginnie 9 Maes, Freddie Macs, Fannie Maes, government securities, not from municipal bonds. I would say we 10 didn't have more than a handful of really crackerjack 11 12 salespeople who understood the municipal market. It would be a real stretch to say that it 13 14 was a win/win for Lasater & Company. How about with regard to having prestige or 15 respect for the firm? 16 17 No question about that. There is that 18 value, sure. 19 MR. FEUER: Was there the anticipation of 20 making profits from trading the securities in the 21 secondary markets, after --22 THE WITNESS: You bet. Yes. And building a sales staff that had more diversity than just 1 government securities. I mean, that's what took that 2 firm down. They sold Fannie Maes and Freddie Macs, 3 and didn't diversify their business, and when one 4 market was depressed, they had nothing to fall back 5 6 on. 7 BY MR. O'CALLAGHAN: 8 Earlier you said you would have liked to be 9 a lead underwriter on these? 10 You bet. A 11 Q Was that realistic? 12 No. A 13 Were any of the local firms able to do 14 that? Stephens tried. At that time in history, 15 they didn't have the distribution. They do now, but 16 17 they didn't then. 18 0 Okay. 19 I think it is fair to say that there was no 20 one in Arkansas that could do that, not at that 21 size.

You said when you join the firm, the net

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241 1 capital was in excess of \$3 million? 2 Yes, I remember it was. Reasonably sure it 3 was. 4 Did that include the illiquid assets that 5 you referred to earlier or is that separate? 6 It probably would have included that, 7 probably would have included that, ves. 8 Do you know what -- how much was involved 9 in those illiquid assets? How much were illiquid? 10 11 0 Yes, like how much the boat was worth? 12 A The boat was \$600,000, and the plane was a 13 twin engine jet Honza, H-o-n-z-a, and I don't know how much that was. Made in Israel, great airplanes. 14 15 Don't know. Really substantial. 16 O Do you know the name of the boat? 17 A Par Value. It was a killer boat. It was a 18 killer boat. 19 Q I hope the Minority doesn't mind if I ask, 20 was it a sail or motorboat? 21 A Motor launch. 22 MR. COLE: You are at the edge of the 242 1 scope. 2 BY MR. O'CALLAGHAN: 3 Q During 1982 through 1986 when you were working for the firm, what percentage of your time 4 5 was spent working on ADFA, AHDA work? Let's see. 6 A 7 O You can tell me whether it was the 8 majority. 9 A It was not a majority. It was a -- it was 10 sporadic. It was point of need stuff. When there 11 was an RFP, I worked on it. When there was a meeting, I went to it. They had monthly meetings, 12 13 but they were an hour or two hours. 14 Q Did Ms. Thomasson have any involvement in 15 working on those issues? No. She had no investment banking skills. 16 17 She was an administrative assistant. 18 MR. COLE: So to the best of your 19 knowledge, she had no involvement in the services 20 that Lasater & Company provided on this ADFA 21

THE WITNESS: No, not at all. No. Patsy

offering?

was a management -- upper management-type person. 1 2 confidante, and didn't get involved with what she 3 didn't understand 4 MR. COLE: Did she have any contacts with 5 the state officials who were in charge of issuing these bonds? And by that, I mean official contacts 6 7 in her capacity as an employee at Lasater. 8 THE WITNESS: Who? 9 MR. COLE: With the various state officials whom you've named that were in charge of issuing 10 these bonds for the state agencies; in other words, 11 12 did she help pitch the business? 13 THE WITNESS: No. no. But at the same 14 time, we were all acquainted with these people. I mean, we all worked on the campaign together. I 15 mean, Patsy was --16 17 MR. COLE: I understand. I am trying to 18 determine if she played a role in the development of 19 this business. 20 THE WITNESS: No. No. BY MR. O'CALLAGHAN: 21 22 Q She wasn't involved in the nuts and bolts 244 1 mechanics? 2 Α 3 But she had contact with some of the people 0 4 on the ADFA board: is that right? 5 We did business with Margaret at Twin City 6 Bank and she knew Margaret very well. 7 Did she also make recommendations with the governor for people to be placed on the board? 8 9 I don't know about that. 10 MR. COLE: To your knowledge, on that point, did she have any meetings or did she undertake 11 any duties or responsibilities in connection with 12 trying to obtain this ADFA business for Lasater & 13 14 Company? THE WITNESS: Not to my knowledge. I would 15 16 be very surprised if she did. 17 MR. COLE: Is it likely, in view of your position at the firm and in view of your 18 responsibilities, that if she had done that you would 19 20 know about it? 21 THE WITNESS: She would have consulted with

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me, yes.

245 1 MR. COLE: Thank you. 2 THE WITNESS: Patsy is a team player. 3 BY MR. O'CALLAGHAN: 4 You mentioned earlier if Arkansas firms met 5 the financial criteria set up by the board, ADFA 6 board, they would normally be signed on as 7 co-underwriters; is that right? 8 If they responded to an RFP, it is my impression that was pretty routine. 9 10 You mentioned earlier also that there were 11 a couple of proposals that you had made to be 12 included as co-underwriters where Lasater & Company 13 wasn't included; is that right? Where we were not included? 14 15 0 Correct. 16 Yes. I seem to remember that there were. 17 Yes. Specifically in multifamily housing issues that Merrill Lynch managed, that was an area we didn't 18 19 have any expertise at all. 20 Did you apply for them? 21 I am pretty sure we did. Do you know why you didn't qualify, or were 22 246 why you weren't put on the deals? 1 2 A I do not remember. 3 You said you didn't have an expertise in 4 that area: is that one of the reasons? That's one of the reasons. Another reason 5 was we didn't get along with Merrill Lynch, didn't 6 7 like them; and we knew we would never get any bonds, 8 number three. 9 So it may not have been a profitable for you to be involved in them anyway? 10 11 It would -- I don't think it would have been profitable. No. 12 13 I believe you also testified earlier that 14 with regard to the police radio underwriting, that Hutton/Raney/Lasater said no one worked as hard as 15 you did, that you wanted it really badly? 16 17 Α Yes. 18 Why did you want it so badly? 19 Well, we always wanted business. I mean, 20 that's what we were -- that's what we opened the door for every morning, number one. Number two, if we got 21

it, that meant that our competitors didn't get it,

1 and that was prestigious.

Q And that was good business?

3 A Well, we thought it was good business,

4 yes.

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Q Okay.

A And if we could shut our competitors out,

7 we wanted to.

MR. O'CALLAGHAN: I have no further questions at this time.

MR. FEUER: I just have one more question.

EXAMINATION

12 BY MR. FEUER:

Q On that deal, the State Police Commission underwriting, did T.J. Raney, E.F. Hutton and Lasater share the management fees equally between the three firms?

17 A I don't remember

18 Q But did they share -- were the management

19 fees shared among -- 20 A They were s

A They were shared. I don't recall how they were allocated.

O Were the bonds that were sold also

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allocated among the three firms?

A They were allocated because we got stuck with them. As I mentioned, when the market went away from us and we forced the underwriting, we owned the bonds at that rate and we divided them by a third, a third, a third. And I had a -- I had a trading wall full of securities.

Q So, in that situation, rather than looking -- rather than Lasater & Company looking at sharing one-third of the profits with the other two firms, as the interest rate market went away from you, you were looking at possibly sharing losses with the other two firms; is that right?

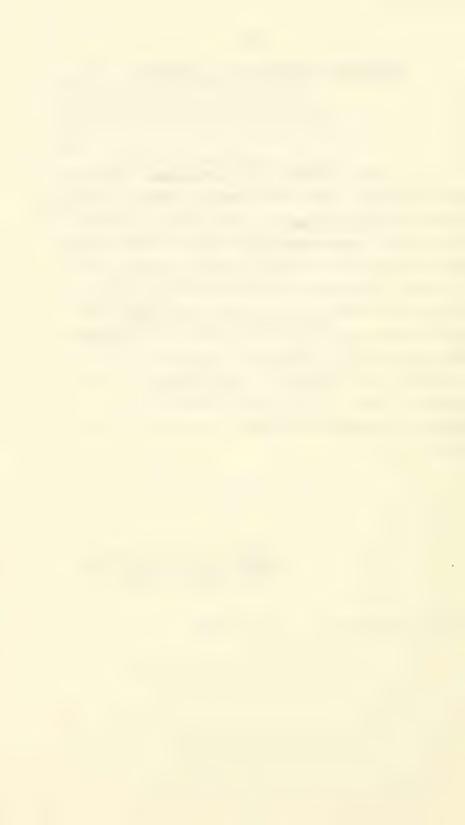
A Well, let me put it to you this way. We owned the bonds. It was our responsibility to sell them, within the agreement among the underwriters, which is a document that we all sign that says this is how we will offer them and this is when they are going to break syndicate and this is when you can start selling them in the secondary market.

If E.F. Hutton wanted to sell their \$3 million bonds to the E.F. Hutton tax exempt bonds

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1	trust, that would then be sold out in units of a
2	thousand dollars. They could get rid of their
3	bonds. We didn't have that, and so we watched the
4	market, the rates go up and our profit deteriorate
5	daily.
6	So it was not we were not happy campers,
7	it was really a sickening feeling, for a deal we
8	worked so damn hard for. I mean, it just was not
9	fun. And Dan was not happy.
10	MR. O'CALLAGHAN: Just one last clarifying
11	question. You went into the deal expecting to make
12	money?
13	THE WITNESS: Yes, we did.
14	MR. O'CALLAGHAN: That's it. That's all I
15	have. Off the record.
16	(Whereupon, at 6:35 p.m., the deposition
17	was concluded.)
18	
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20	MICHAEL J. DRAKE
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JOANNE LIVERANI , the officer before whom the foregoing deposition was taken, do hereby certify that the witness whose testimony appears in the foregoing deposition was duly sworn; that the testimony of said witness was taken in shorthand and thereafter reduced to typewriting by me or under my direction; that said deposition is a true record of the testimony given by said witness; that I am neither counsel for, related to, nor employed by any of the parties to the action in which this deposition was taken; and, further, that I am not a relative or employee of any attorney or counsel employed by the parties hereto, nor financially or otherwise interested in the outcome of this action.

My Commission Expires JULY 31, 2000



DEPOSITION OF CAPRICIA PENAVIC MARSHALL IN RE: S. RES. 120

THURSDAY, JANUARY 25, 1996

U.S. Senate,
Committee on Banking, Housing, and Urban Affairs,
Special Committee to Investigate Whitewater
Development Corporation and Related Matters,
Washington, DC.

Deposition of CAPRICIA PENAVIC MARSHALL, called for examination pursuant to notice of deposition, at 4:45 p.m. in Room 640–A of the Hart Senate Office Building, before PATRICIA A. ZUBER, a Notary Public within and for the District of Columbia, when were present:

VIET D. DINH, Esq.
Majority Associate Special Counsel
GLENN F. IVEY, Esq.
Minority Counsel
U.S. Senate
Committee on Banking, Housing, and Urban Affairs
534 Dirksen Building
Washington, DC 20510
On behalf of the Committee.

JOHN M. BRAY, Esq. Schwalb, Donnenfeld, Bray & Silbert 1025 Thomas Jefferson Street, NW Suite 300 Washington, DC 20007 On behalf of the Deponent.

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PROCEEDINGS

1 2

 MR. DINH: Ms. Marshall, as you know, my name is Viet Dinh. I'm with the Majority staff here on the Special Committee team to investigate Whitewater Development Corporation. One of my colleagues, Chris Bartolomucci, will be joining us at some point and he'll be helping me with the task today.

This deposition is conducted pursuant to
Senate Resolution 120. The resolution establishes
the Special Committee administered by the Senate
Banking Committee to conduct an investigation into
Whitewater Development Corporation, Madison Guaranty
Savings & Loan Association, and other related
matters.

As you may know, the Special Committee has investigated and conducted hearings into a number of subjects. I will ask you to talk about any knowledge you may have of matters relevant to this continuing investigation, but I anticipate that the two main areas that we are going to talk about have to deal roughly with the time frame of July 20th through July

27th, 1993 and roughly the timeframe of July 20th to August 10th, 1995.

Section 1(b)(1) of Resolution 120 authorizes investigation and public hearings into "whether improper conduct occurred in the way in which White House officials handled documents in the office of house deputy counsel Vincent Foster following his death.

Section 1(b)(3)(A) of Resolution 120 authorizes "investigation and public hearings into the operation, solvency, and regulation of Madison Guaranty Savings & Loan Association and any subsidiary, affiliate or other entity owned or controlled by Madison Guaranty Savings & Loan Association."

Section 1(b)(3)(C) of Resolution 120 authorizes an "investigation and public hearings into the policy and practices of the RTC and federal banking agencies regarding the legal representation of such agencies with respect to Madison Guaranty Savings & Loan Association." These roughly will be the focus of today's deposition.

Your testimony today will be taken under oath and the stenographer will prepare a record of questions and answers. This deposition is taken in advance of public hearings to be held as we speak right now. We have not decided who among the deposition witnesses will be at such hearings, but if you are among those we call at the hearings, we will notify you in advance.

The transcripts of this deposition will be treated as committee confidential until the commencement of -- until the hearings, until your attendance at the hearings. Then whole or part of the transcript may be made public. Prior to the hearings you will receive a letter from the Committee telling you that you may come, you or your counsel may come to the Senate to review the transcript of your deposition and make note of any corrections for transcription on an errata sheet.

MR. BRAY: We do that whether or not this is to be a public witness?

MR. DINH: Indeed. MR. BRAY: Okay.

 BY MR. DINH:

Q And I just want to stress that that again is for the limited purpose of review and correction and not to be disclosed for any other reason. If you are called to testify at public hearings, you will be provided with a copy of your deposition transcript four days in advance of your testimony including any errata sheets that you may provide, again for the limited purpose of preparing yourself for testimony at public hearings.

You may be represented by counsel. And if counsel would make an entry into the record.

MR. BRAY: She is represented by counsel, John M. Bray.

MR. DINH: Pursuant to procedures set forth in Resolution 120, objections as to the form of the questions will be noted for the record. There are two grounds upon which counsel may object and give an instruction not to answer. Those are privilege and scope; that is, the question goes beyond the scope of the matters authorized in the Senate Resolution 120.

22 The resolution further states that the Committee

7 Chairman ultimately will rule on objections where the 1 2 witness refuses to answer a particular question. 3 Swear in the witness, please, MR. BRAY: I don't anticipate any problems 4 in either of those areas and I take it you don't 5 6 either 7 MR. DINH: No. MR. BRAY: Scope. Why would you want to 8 exceed scope and privilege? You have no interest in 9 10 any of that, I'm sure. (Laughter.) 11 12 Whereupon. CAPRICIA P. MARSHALL 13 was called as a witness and, having first been duly 14 15 sworn, was examined and testified as follows: EXAMINATION 16 17 BY MR. DINH: 18 Can you state for us your name for the 0 19 record. 20 Α Capricia Penavic Marshall. 21 22 1 0 Your office phone number? My office phone number, 202-456-7064. 2 Α 3 Do you share that phone with somebody else or is it just your personal line? 4 5 No, it's pretty much my line. 6 O Does anybody else answer the line or use 7 the line? Yeah. We have an intern and there's 8 another young man in the office, assistant, who 9 10 answers that line as well. 11 How often does the intern or the other 12 assistant use the phone to make outgoing calls? 13 Oh, often. A 14 Often. How about answering the phone? O 15 Α 16 O Do they answer the phone for you? 17 Α Yes. But you consider that to be your line, your 18 primary line? 19 Yes. 20 Α 21

0 Ì Do you have any roommates? 0 2 I have a husband. Α 3 Any children? O 4 Α No 5 0 From the notice of your deposition, have 6 you had any conversation with anybody other than your 7 attorney and family members about the substance or 8 subject matters that you're about to be asked to testify about? 9 10 Have I done what? 11 Have you talked to anybody outside of your 12 family or your attorney about the subject matter that 13 you have been called to testify about? 14 Α No. 15 Without telling me what you were asked or 16 what you said, can you tell me whether or not you've 17 been interviewed or questioned under oath by another 18 investigative agency with respect to the matters that 19 you've been asked to call about? 20 A Yes 21 MR. BRAY: Let me just mention we will tell 22 you that this morning Mrs. Marshall did appear before 10 1 the Grand Jury being run by Independent Counsel 2 Mr. Starr and his staff, and she completed testimony 3 down there today. 4 BY MR. DINH: 5 Was this your only testimony before another 6 investigative agency regarding these matters? 7 Α Yes. 8 0 What is your current position at the White 9 House? 10 I am special assistant to the First Lady. Λ 11 O How long have you been there in that job? Ever since January 20th, 1993. 12 Α 13 O So since the beginning of the Clinton administration? 14 15 Yes 16 O Where were you before that? 17 Α I worked on the campaign prior to that. How did you get involved in the campaign? 18 0 19 I started in Ohio. I gained interest in Α President Clinton because I thought that he was one 20 21 of the better candidates that was out there. And I

sort of found out through friends who was working on

it, and I then gathered more information, started to 1 2 go out on the road, doing sort of home chats with 3 people about President Clinton, and pretty much 4 started the campaign offices in Ohio.

5 Let me back up just a little bit. Would you take a moment just to describe to me briefly your educational and professional background up to the point you joined the campaign.

I have a bachelor of arts and science, and I have a JD.

Q And you call your home Ohio?

12 I'm from Cleveland. Α

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13 So what was your role in the Ohio office of 14 the campaign?

15 It was basically to try to start root support, grassroots support. And then we went into 16 the delegate selection system and I tried to figure 17 that out because it's sort of a complicated system. 18 And I assisted in putting together -- how you go 19 20 about putting delegates together, and how they get

voted in, and things like that. 21 22 Were you in charge of the office?

A Was I in charge of the Ohio office?

2 0 Of the Ohio office.

No, there were several people. And there really wasn't an office per se at the beginning. There was just everyone working from their homes and putting things together and just trying to gain support.

Q Did you stay at that office throughout the campaign, or did you at some point join the Arkansas main headquarters?

Α Again, there wasn't really an office so it was like --

> 0 Right.

A -- I didn't stay at that. Once I started on the road, because then I went on the road, and 16 again when you're on the road, you work from -- home base becomes your own personal home. So I worked 17 from Cleveland and I went on the road. And I was an 18 advance person. And that means I went ahead and 19 20 prepared a lot of the visits that the principal would 21 be coming to.

Q. Who was your supervisor in the advance

1 team?

A Who was my supervisor? Well, there was a scheduling office, there was both Presidential scheduling and First Lady scheduling and the office of advance. And I can't remember who the fellow was that was the head of the office of advance.

7 Q But you were within the office of advance 8 of the campaign?

A Yes.

Q And you reported to this individual who was the head of the office?

12 A Yes, yes.

Q Was that your role throughout the campaign until the election in November?

A No, it wasn't. I primarily requested to do advance work for Mrs. Clinton so that -- because I thought she was a pretty terrific person. And then we sort of got to know one another, and at the convention, I increased my activity with her, and I would go and do various events in New York. I would handle various events for Mrs. Clinton, logistics and things of that sort, just movements.

And after the convention. I went on the bus tour with them, which was great fun. And again I did a lot of logistics work, handling, if we're going to a rope line, if we're want going to a rope line, who we will see somewhere, things of that sort. And once we returned to Arkansas after the first bus trip, then it was talked about and I went on the road with her. I traveled with her on the plane during the general election.

Q So after the first bus trip, you were -your function in the campaign dealt primarily with the First Lady and her travel and other needs?

A Yes, primarily.

Q And does that continue until the end of the campaign, the election?

A That I traveled with her primarily and that my functions were with Mrs. Clinton, yes.

Q Did you serve in any role during the transition?

A Yes. I stayed in Arkansas during the transition time and I spent a considerable amount of my time in the basement of the Governor's Mansion.

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1 There were several people who were down there who were dealing with correspondence coming in. 2 3 communications with the D.C. office and the Inaugural 4 Committee. 5 O During the time that you were working primarily with Mrs. Clinton, during the campaign, 6 7 after the first bus trip, do you remember who your 8 primary supervisor was? 9 Yes. It was Jody Franklin who was the chief of staff at that time and then it quickly 10 11 changed to Maggie Williams. O Was that the first time you met the First 12 13 Lady or Governor Clinton, was your activities during the campaign? 14 15 Α Yes, it was, 16 Did you meet Mrs. Clinton first, or did you 0 17 get the pleasure of meeting the President first, or then-candidate? 18 19 I don't remember. Α 20 Let me ask you more now about your special job to currently. I'm sorry, I neglected to take 21 notes. Can you repeat for me your title again? 22 1 Special assistant to the First Lady. Α 2 That's what I thought. I wasn't sure 3 whether it was the First Lady or the President. 4 Yes, there is a difference. As you probably -- special assistant to the President is you 5 get one of those documents. I forget exactly what 6 7 they're called, but it's a different -- I don't rank 8 that high. 9 What are your duties as special assistant 10 to the First Lady? 11 My duties as special assistant to the First Lady entail being with her from the beginning of the 12 13 day until late at night. I basically shadow Mrs. Clinton. I go with her to various events, 14 15 activities are held in the White House and sometimes outside of the White House. I would take 16 communications for her, at times return phone calls 17 18 for her, receive phone calls for her. 19 I also handle quite a bit of follow-up, follow-up that comes off of trips. That would be 20 correspondence, gifts, making sure that they get to 21

the gift unit and they're registered, that thank yous

have been sent; also making sure that personal
correspondence responds to people in a relatively
timely fashion.

I as well will substitute for various staff members. I have -- you know, if our trip director can't make the trip, I then go in her stead. If the deputy chief of staff is unable to go on a trip, I oftentimes will go in her place. I generally make most of the long distance trips and stay off of the short distance.

Q Sounds like a busy job.

A It is. But it's interesting.

13 Q What do you consider to be -- start from 14 the bottom up and from the last to the first. What 15 do you consider to be a normal long distance trip, 16 just so I can gauge --

A Mainly foreign trips, foreign travel is our longest types of trips. Those generally will go for three, four days, sometimes, you know, a couple of weeks.

Q Do you also make trips that are of long duration while not necessarily long distances?

A I'm sorry?

Q Do you also accompany the First Lady on trips that are of long duration rather than long distances?

A That's sort of what I meant.

Q Oh, okay. Got you. Sorry. With respect to your role as the -- ensuring that personal correspondence are returned in a timely manner, would you say then that you work closely with or have a supervisory relationship with the First Lady's correspondence office?

A No, no, I do not have any sort of supervisory. I just send them correspondence that needs to be responded to and just say hey, you guys getting this out and they say yeah, we're making sure we get it out.

Q More of a follow-up function --

18 A Yes.

19 Q -- just to make sure to cover all grounds?

20 A Yes.

Q Do your duties include any sort of recordkeeping for Mrs. Clinton?

19 1 Α No. no. 2 So you don't -- do you keep files in your 0 3 office with respect to the things that you are doing? With respect to what things that I'm 4 5 doing? 6 To your functions that you are doing --0 7 Like follow-up? Α 8 -- like correspondence follow-ups, 0 9 communications, things like that? 10 A few, not many. A Most of them are more instantaneous, you 11 pass on the letter to the correspondence people, you 12 13 follow it up with a phone call, you may have a memo 14 pad somewhere or a calendar, but nothing of a filing 15 nature? 16 A Once I receive correspondence that needs to go out, I make sure that it gets to where it's 17 18 going. Generally, that is it. 19 You don't keep a copy of that? Q No. I would have quite a stack if I did. 20 Α 21 Did, at any time during the campaign --0 let's say after the first bus trip, did any of your 22 20 duties include recordkeeping for the campaign or for 2 the First Lady? 3 No. Α 4 Was it -- were you serving the First Lady 5 in approximately the same functions that you do now, 6 but albeit in a different context? 7 Yes, approximately. Do you do -- do you handle any of the 8 scheduling for Mrs. Clinton? 9 10 No, not really. If the scheduler is out of town, if she's away on a trip, then at times I'll 11 just handle some of her more personal appointments. 12 Who is the scheduler? 13 0 14 Α Patti Solis. P-a-t-t-i, S-o-l-i-s. 15 0 Thank you. I notice you can read upside 16 down. 17 MR. IVEY: Good lawyer skills. BY MR. DINH: 18 And does Ms. Solis deal exclusively with 19 20 scheduling? Is that her primary and sole function, 21 or does she have other functions?

No, that is her primary and sole function.

21 1 Do you deal with guests to the White House 2 at all? 3 Α House guests or --4 O Yes, the White House residence guests. 5 People who are spending the night? A 6 0 Yes. 7 Yes. Ldo Α 8 O In what capacity do you deal with them? 9 Well, generally I see them in, like, the 10 hallways, and if they have questions, I'll direct them to certain areas. I mean, if they want to use 11 12 the exercise equipment, I'll show them how to get 13 there. If they want to get a video out of the book room, I'll show them, where the videos are, and 14 things like that. I'll just sort of help them 15 because I'm around, I'm the person who's around. 16 17 General assistance also? 18 Uh-huh. A 19 You don't schedule their stays or make 20 arrangements for their visits before they come to 21 town? 22 A No, that's handled by Carolyn Huber. 22 1 Other than this informal assistance 2 function, do you have any other duties or dealings with the guests to the White House residence? 3 4 A No, not really. 5 Nothing official like taking them around, 6 or showing them Washington, D.C., or anything like 7 that? 8 No, I don't show them Washington, D.C. I 9 might show them the residence, and just take them on 10 a tour of neat places in the residence. If they're not staying in the Lincoln Bedroom, you show them the 11 12 Lincoln Bedroom and things like that. 13 Do you report directly to Mrs. Clinton? 14 Yes, I do. I also report to Maggie and A 15 Melanne Veveer. 16 What is Ms. Veveer's position? 0 17 She's deputy chief of staff. Α 18 0 To the First Lady? 19 A 20 0 Do you work closely with Carolyn Huber? 21 No. She's just down the hall from me, so

we see one another in the proximity of our office.

		23
1	Q You don't have any reporting or supervisory	
2	function with respect to Ms. Huber?	
3	A Oh, no. No, no.	
4	Q Do you have assistants who work for you?	
5	A There is not an assistant who works	
6	specifically for me but there is someone who helps in	1
7	the office, that generally helps the entire First	
8	Lady's office.	
9	Q And what is the name of this person?	
10	A His name is Eric Hothem, H-o-t-h-e-m.	
11	Q And this is the same assistant that you	
12	said picks up your telephone when you're not around	?
13	A Answers telephones, yes.	
14	Q And does the intern also help assist you in	
15	your duties?	
16	A Yes, but she well, we've had a few.	
17	We've had a couple of interns.	
18	Q More a rotating basis?	
19	A Yes.	
20	Q How long do interns usually stay there?	
21	A Four months, three months. It varies.	
22		
22	Q Do you happen to remember the name of th	e
22	Q Do you happen to remember the name of th	e 24
1	intern who was there during the period, end of July	
1 2		
1 2 3	intern who was there during the period, end of July beginning of August 1995; that is, last year? A We didn't have one.	
1 2 3 4	intern who was there during the period, end of July beginning of August 1995; that is, last year? A We didn't have one. Q You didn't have one.	
1 2 3 4 5	intern who was there during the period, end of July beginning of August 1995; that is, last year? A We didn't have one. Q You didn't have one. So you work very closely with the First	
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suicide. Were you traveling with the First Lady at

1478 25 1 the time? 2 Α Yes, I was. 3 0 Were you there for the entire trip? 4 Α Yes, I was. 5 O So you were in Hawaii with her? 6 Α Yes, I was. 7 And then you came back to Los Angeles? O 8 Α Yes. 9 0 Do you remember, approximately how long was 10 the stay in Los Angeles? 11 I don't really recall. I think maybe two 12 days. 13 Okay. And then from Los Angeles, you went 0 14 with the First Lady to Little Rock? 15 Α Yes. 16 O Do you remember approximately what time the 17 plane landed? 18 Do I remember what time the plane landed. 19 Approximately, the time the plane landed in 20 Little Rock. 21 A No. I just know it was in the evening, 22 that's all. 26 1 And then you traveled with her back to 2 Washington? 3 A Yes, I did. 4 Did you subsequently go with the First Lady 5 back to Little Rock for Mr. Foster's funeral later on 6 that week? 7 Α No, we staved in --8 0 Oh, you stayed, you stayed in --9 Yes. A 10 -- Little Rock for the funeral. And then 11 on Saturday, you flew back with the First Lady to 12 Washington? 13 A Right. 14 0 Did you attend Mr. Foster's funeral? 15 A Yes, I did. 16 Directing your attention specifically to 17 the night of July 20th, when -- can you describe to 18 me the circumstances when you heard the news of 19 Mr. Foster's death?

When I specifically heard the --

Q When you specifically heard the news of

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Mr. Foster's death.

27 I was in my hotel room with my two 1 2 traveling companions, the people who -- the press secretary and logistics trip director. 3 And which hotel was this? 4 0 5 Α The Excelsion. 6 O And that would be Lisa Caputo who you were 7 staying with? 8 Yes. Α 9 O And who was the other person? Kelly Craigham. 10 Α Okay. I'm sorry to interrupt you. 11 0 No, that's all right. And we were in our 12 Α 13 hotel room and the phone rang, and I answered the telephone. And it was Mrs. Clinton, and she told me 14 15 that she didn't want us to see it on television, that 16 Mr. Foster had committed suicide. 17 Q Do you remember approximately when this was, what time of night it was? 18 19 It was later in the evening. I just, I 20 can't pinpoint a time really. 21 The plane landed and then did you go with Mrs. Clinton to Mrs. Rodham's residence? 22 28 1 Α Yes, I did. And then you stayed there for a while with 2 0 3 Mrs. Clinton? 4 For a short time. 5 Q For a short time. And then you left to go 6 to your hotel? 7 Yes. 8 0 Did Ms. Caputo leave with you to go to the hotel? 9 10 A Yes, she did. 11 0 At the time -- during the time you were at the Rodham residence, you did not hear any news of 12 Mr. Foster's death? 13 14 No. I hadn't. Α 15 Nor on the ride back? 0 16 Α No. I hadn't. 17 All three of you got back to the hotel. O Did you share the same room? 18

Myself and Kelly Craigham had shared the

same room, and Lisa Caputo's was connecting so

whenever our rooms are connecting, we open up the

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doors.

29 1 0 And on this night was it open? 2 Yes, it was. Α 3 0 And Lisa was in her room? 4 Α Yes, she was -- actually she was in my 5 room. 6 0 You were in your room, sharing like sort of 7 a common area, as it were? 8 Α Yes. 9 O And all three of you were there at the time 10 Mrs. Clinton called and gave you the news? 11 Α Yes, we were. 12 Did Ms. Caputo give any indication that she 13 at this time knew about the news of Mr. Foster's 14 death? 15 Α No. she didn't 16 Did she tell you -- she didn't tell you 0 17 previously that Mr. Foster had passed away? No. I don't know how she could have known. 18 19 And she, like you I presume, expressed 20 surprise at the news? 21 Α Oh, absolutely. 22 While you were -- what then did you do --0 30 1 what then did you do after receiving this phone call? 2 We were just sort of shocked and we got -we were really upset. We all just started trying to 3 figure out why, and we couldn't figure out why or how 4 5 this could have happened. And I think we might have 6 gotten something to eat. 7 From the hotel or did you go out? 0 8 You know, I don't remember. 9 So you had a conversation amongst the three 10 of you about the news? 11 A Yes, yeah, we were --12 O And then you might have gone out to get 13 something to eat? Yes, we were just really surprised. 14 A 15 0 At any point did you make it back to the Rodham residence that evening on the July 20th --16 17 No, we did not. 18 -- or early the next morning? 19 We did not go back that evening. Don't 20 recall if we went back early the next morning. I 21 believe we might have gone back the next afternoon. 22 By early next morning, I meant like a

31 1 continuation of the evening. 2 Oh. no. A So you went and had your dinner, your meal 3 0 4 and then you went to sleep? 5 Yes. Α 6 O And then at some time, at some point during the next day, you made your way back to the Rodham 7 8 residence? 9 Α Ves 10 0 Let me turn your attention back --Wait, at some point, somewhere --11 Α 12 Some point during the next day, in the 13 afternoon some point, you made your way back to the Rodham residence? 14 15 Yes. 16 O Let me turn your attention back now, if you can follow me. After you landed at the airport, 17 going to the Rodham residence, were you in the same 18 car with Mrs. Clinton? 19 20 No. Chelsea and her mom, I think, were in 21 the same car with her. 22 You followed in a support car, van? 32 1 Α Yes. 2 0 Van? 3 Α A support van. 4 Van. Okay. With Mrs. Caputo and 0 5 Ms. Craigham? 6 Α Yes 7 And then you were at the Rodham residence. Can you -- and I know you testified to this before. 8 9 Can you give me a more definite estimate as to how 10 long you were at the Rodham residence? 11 That's very tough to remember. You know, this was 1993. It's difficult for me to remember. 12 13 Did you walk with Mrs. Clinton into the 0 house? 14 15 Oh, yes, because we got all of her things Α 16 in. 17 You unpacked her things? 0 We brought the luggage in. 18 Α Did you unpack her luggage for her? 19 Q 20 I don't know if I completely unpacked her Α 21 luggage, but I put it in an area, in a room where she was going to be, and made sure it was accessible.

33 1 And --2 0 And I take it you did the same thing for 3 Chelsea? 4 Yes. And then I remember we sort of sat 5 around the dining room table and chatting about -- I think it was just talking and hanging out sort of 6 7 deal. 8 0 Unwinding from a trip? 9 Α Yes. 10 0 Do you remember the topic of conversation, 11 nothing of note? 12 Oh, no. No, we were all sort of slaphappy 13 I remember because it was a long trip. 14 A long trip from Hawaii? 15 A long trip all the way around. We went to 16 Japan, and then Hawaii, and then California, and then 17 Arkansas 18 0 You didn't have significant -- how long --19 I mean, I know you answered -- were you there a matter of days or hours in Los Angeles, was the 20 21 layover? Do you remember? 22 Oh, no. It was definitely a couple of 34 1 days. 2 Okay. But by this time, it's been --0 3 you've been weary by travel with the long trip? 4 A Oh yeah, I'd been away from my husband for 5 three weeks. It was a long trip. I thought you meant trip as in flight. 6 7 Α No. 8 Apologies. So all this time, Ms. Craigham 9 and Ms. Caputo was also with you? 10 A Yes, they were. 11 And then after this chat, did you then 12 leave, or did you do something else? Yes. Ms. Rodham actually sort of looked at 13 14 us and suggested that we go. That's Mrs. Rodham, 15 Dorothy who lives there. 16 Mrs. Clinton's mother? 0 17 Α Yes. 18 0 And then you left in the van? 19 Α Yes, I think that we were driving our van 20 then. 21 And with Mrs. -- with Ms. Caputo and

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Ms. Craigham, the three of you?

35 1 Α Yes. 2 Anybody else, Secret Service or anybody 0 3 like that? 4 No. I don't remember anybody else going Α 5 with us. 6 During the time from when you arrived at the Rodham residence and from when you left, do you 7 remember Mrs. Clinton getting any phone calls? 8 9 Yes, I do. We were in the dining room. I think maybe -- I don't remember if she went and 10 answered the phone or if Mrs. Rodham answered the 11 phone, but somehow or another she got a phone call. 12 She went into the kitchen. She went to the back part 13 14 of the kitchen. It's sort of long, and --A different part of the room, or a separate 15 room altogether? 16 17 A separate room. And we waited for her to come out and she just, she didn't. I went to go get 18 19 something to drink and I could tell that she was pretty upset. And so we all looked at one another 20 and Mrs. Rodham said I think you should go, so we all 21 22 said we better go. 36 Do you know who the call was from? 1 Q 2 Α No. I don't. You didn't take the call? 3 0 4 No. I didn't. Α Did you make any calls when you were at the 5 O hotel after you learned the news of Mr. Foster's 6 7 death? None that I recall, no. 8 Α 9 Did either one of your colleagues, 0 10 Ms. Caputo or Ms. Craigham? None that I know of. 11 12 Because you were there all together, O 13 sharing the loss, and then eating, and then going to 14 sleep? 15 Α Yes. Well, we didn't go to sleep together. 16 0 Well, in the same room, at the same time I 17 suggest. Careful. 18 Α MR. DINH: Off the record. 19 20 (Discussion off the record.) BY MR. DINH:

22 Did you call your husband that night? Q

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37
 1
             I don't remember. I don't remember. I
 2
    don't remember.
 3
             Let me turn your attention now to -- well,
4
    did anything out of the ordinary, let's put it that
 5
    way, knowing that this entire chain of events is
6
    rather extraordinary, given that a close colleague
 7
    had passed away. But did anything out of the
 8
    ordinary happen on the 21st that you recall, after
9
    the time you arrived at the Rodham residence?
10
             The 2 --
        Α
11
        0
             The 21st, the next day?
12
        A
             The next day, anything out of the
13
    ordinary.
             Yes, anything that strikes your memory now,
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        0
15
    as you sit back, as worth commenting on.
16
            No, just that everybody was really upset.
17
             Right. Right. Were there a lot of
    communications back and forth to the White House or
18
19
    to other people in Washington at that time?
20
            No -- well, by whom?
21
        O
             By Mrs. Clinton.
22
             Oh, I don't know about any communications
                                                             38
 1
    she made.
2
        0
             How about by other people within her
3
    entourage?
4
             You mean by myself or Kelly or Lisa?
        O Exactly, you three.
5
6
             We were just trying to learn of are we
7
    staying here, are we leaving. We didn't know sort of
8
    how or what our roles became. We just wanted to find
9
    out are we still staying at this hotel, you know,
10
    sort of those things.
11
        O
             And who did you deal with, Maggie Williams?
12
        A
             No. we called Patti.
13
             Patti Solis?
        0
14
             I think Patti would have been the
15
    logical -- I can't say for certain who it was I
16
    called, but I think Patti would have been a logical
17
    person.
18
             During these two days did you have any
19
    conversation with Ms. Susan Thomases?
20
             No, none that I recall.
21
             Let's go forward to the next day, July
```

22nd. What time did you -- I take it you went back

		39
1	to your hotel on the night of the 21st?	
2	A Yes, we did.	
3	Q You did not stay at the Rodham residence?	
4	A No, we did not.	
5	Q What time did you make your way to the	
6	Rodham residence the next day?	
7	A I don't remember actually going there. I'm	
8	not sure. I mean, those days are kind of fuzzy to	
9	me. I mean, was that the day of the funeral?	
10	Q No, it was not. It was can	
11	we go off the record for one second.	
12	(Discussion off the record.)	
13	BY MR. DINH:	
14	Q Now that we've had a chance to refresh your	
15	memory and compare our notes, I think both Mr. Ivey	
16	and I agree that Tuesday was the 20th, the date of	
17	the death. The 21st, which I've questioned you	
18	about, was the Wednesday. The 22nd therefore is the	
19	Thursday, and the 23rd is the day of the funeral.	
20	A Okay.	
21	Q The 24th, Saturday, is when I believe you	
22	all flew back to Washington together. So Thursday is	
	5	
		40
	the day before?	40
1	the day before? A No, we flew back right after the funeral I	40
1 2	A No, we flew back right after the funeral I	40
1 2 3	A No, we flew back right after the funeral I believe.	40
1 2 3 4	A No, we flew back right after the funeral I believe. Q Right after the funeral then?	40
1 2 3 4 5	A No, we flew back right after the funeral I believe. Q Right after the funeral then? MR. IVEY: Actually I'm not sure if the	40
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1 On which day? Α 2

On the 22nd, the Thursday? O

3 I don't know. What I do know is that I 4 went with -- I believe one of those days Chelsea had

some personal appointments and I went with her to a 5

couple of her personal appointments. But that's all 6 7

- I remember. I don't know if it was the 21st, 22nd.
- 8 23rd, which day it ended up falling on. And we went,
- 9 you know, to some of those, and so we just picked her

10 up and then we went. So I don't know.

- And you just went over there and then -went over to the Rodham residence, picked her up and then dropped her off afterwards?
 - Yeah, I think so.
- 15 Did you spend any significant amount of 16 time in the Rodham -- at the Rodham residence during
- 17 this three-day period?

11

12

13

14

- 18 I don't remember a specific time period.
- 19 Generally what I do remember is not going inside,
- 20 that we sort of hung outside because it was -- you
- 21 know, there was a moment of grieving going on there.
- 22 It was really sad, and trying to give some space,

42

- 1 some distance, be respectful.
- 2 And inside the house were whom? 0
 - Α At what point?
- 4 Generally when you were trying to give 5 space, is it just Mrs. Clinton and her mother and
- 6 Chelsea, or were there other people who were in
- 7 there?

3

12

- 8 Well, the President eventually came down
- 9 but I don't remember which date he came down. And --10 Let's focus on the time before he came, the 0
- 11 President arrived.
 - Was it just generally them, yeah, generally it was those three who were in the house.
- 13 And all three of you, Ms. Caputo, you and 14 15 Ms. Craigham, had stayed outside when you were at the
- 16 Rodham residence? 17
 - Well, we may have gone inside to get
- 18 something to drink or, you know, are you doing okay
- 19 and things of that sort, but yeah, we generally sort 20 of just gave distance, hung out in the garage which
- 21 is connected to the house.
 - But you weren't hanging out in the

		43
1	residence itself	
2	A No.	
3	Q you were hanging out outside; unless you	
4	had a specific reason to go in the residence, you	
5	wouldn't go in the residence?	
6	A It's a small house, so.	
7	Q How big is the house?	
8	A It's small.	
9	Q Two bedrooms, three bedrooms?	
10	A There's one main bedroom. I believe a	
11	little guest area, and then they converted the	
12	basement which is sort of a sitting area, I think	
13	it's a fold-out bed.	
14	Q And there were Secret Service personnel	
15	present also?	
16	A Oh, yes, oh, yes.	
17	Q Outside and inside?	
18	A No, never inside. Outside.	
19	Q Outside, on the perimeters?	
20	A Yes.	
21	Q For this period, let's say from July 20th	
22	until when President Clinton arrived in Little Rock,	
	until When Fredheit Children all Fredheit	11
		44
1	did you witness any aside from the telephone	44
1 2	did you witness any aside from the telephone conversation you've already testified to, did you	44
1 2 3	did you witness any aside from the telephone conversation you've already testified to, did you witness other telephone conversations that	44
1 2 3 4	did you witness any aside from the telephone conversation you've already testified to, did you	44
1 2 3	did you witness any aside from the telephone conversation you've already testified to, did you witness other telephone conversations that Mrs. Clinton had with anybody while she was in the	44
1 2 3 4 5	did you witness any aside from the telephone conversation you've already testified to, did you witness other telephone conversations that Mrs. Clinton had with anybody while she was in the Rodham residence?	44
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1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19	did you witness any aside from the telephone conversation you've already testified to, did you witness other telephone conversations that Mrs. Clinton had with anybody while she was in the Rodham residence? A No, none that I recall. Q Again during this period, did you talk to expanding I've asked you the question earlier regarding the 20th and the 21st. Expanding the time frame to include up to the point when President Clinton arrived in Little Rock, did you talk to Ms. Susan Thomases? A No, not that I recall. Q Let me turn your attention now back again to July 22nd. A Okay. Q Do you and you testified earlier you didn't know which day you were at the residence or what time.	44

```
45
 1
    Williams? No, none that I recall.
 2
        Q Did you page Ms. Maggie Williams? Maybe
 3
    that is a more specific question.
 4
        A Not that I remember, no.
 5
        Q And you don't recall being at the Rodham
 6
    residence, specifically being at the Rodham residence
 7
    on that date?
 8
             I may have. I just don't remember. I
9
    don't remember specifically one day from the next.
10
            MR. BRAY: Sorry. What day are you talking
11
    about now?
12
            MR. DINH: July 22nd, the Thursday after
13
    Mr. Foster's death
            MR. BRAY: This is, as best you can
14
15
    remember, this is a day, maybe two days before the
16
    funeral.
17
            MR. DINH: Yes, precisely. Precisely. Two
18
    days after the death.
19
            BY MR DINH-
        Q Let me show you an exhibit marked Z655.
20
21
    And let me ask you to look at the last entry in that
22
    series of entries there.
                                                            46
 1
            MR. BRAY: Do you have another copy?
2
            MR. DINH: There.
3
            BY MR. DINH:
4
             And let me explain to you that these were
5
    produced to us from the White House and they are
6
    Margaret Williams's pager records. And if you will
7
    bear with me, the number, the beginning number toward
8
    the right column there, the first four numbers is the
9
    time, 12:47 P. And the next set of four numbers are
10
    the dates, 07/22. And so this indicates that at
11
    12:47 p.m. on July 22nd Ms. Williams received a
12
    page. Can you read that, the text on that page for
13
    me?
14
             It states "please call Capricia at Rodham
15
    residence."
16
             And "operator 3484," something like that --
        O
17
        Α
             Something like that, yeah.
18
        O
             -- is the thing.
19
            Does that help refresh your memory with
20
    respect to my questions earlier on relating to
```

whether you were at the Rodham residence and whether

you had paged Ms. Williams?

21

47 1 No, it does not. 2 You don't -- you would -- you were -- do 3 you remember whether you were at the Rodham 4 residence? 5 Α I don't remember being, exactly which day I was at the Rodham residence. There were times that I 6 7 was at the Rodham residence within that time period. 8 I just don't remember at which time period I was 9 there. During one of the time -- one of the time 10 0 periods that you were at the Rodham residence, did 11 you place a page to Ms. Williams? Do you recall 12 placing a page to Ms. Williams? 13 I don't recall that. 14 15 Do you recall anybody asking you to put a page to Ms. Williams? 16 17 No. I don't recall that. 18 Do you recall anybody telling you to expect 19 a call from Ms. Williams? 20 A No. I don't. 21 And so it is your testimony that you don't 22 remember this particular -- any specific beyond 48 what's stated here on the paper in front of you with 1 respect to this particular page? 3 No MR. BRAY: Excuse me. I'm not sure I 5 follow what you were saying there. I thought what she was saying is the page doesn't refresh her. MR. DINH: Right. 8 MR. BRAY: That is, she doesn't recall what purports to be on the page even after seeing it. Your question seems to suggest you don't remember anything other than what's on the page. She doesn't remember what's here. MR. DINH: Thank you. Thank you for

2 4 6 7 9 10 11 12 13 14 clarifying. MR. BRAY: At least I think that's -- I 15 16 just wanted to clarify. 17 THE WITNESS: That is exactly what I was 18 trying to say. 19 Can I ask you a question? 20 MR. DINH: Off the record. 21 (Discussion off the record.) BY MR. DINH: 22

1 O By the way, do you carry a cellular phone? 2 Do I carry a cellular phone? Now or --Α 3 0 Yes. 4 Yes, I carry a cellular phone now. Α 5 Did you carry a cellular phone in July of 6 1993? 7 I don't know if I was given one then or 8 not. They're pretty hard to come by. They are pretty hard to come by? 9 0 10 Α Yes. Do you use other people's cellular phone 11 when you make calls for the First Lady or other 12 13 official calls? 14 Yes. I have on occasion 15 0 Borrow? 16 Yes. A 17 Do you remember using another person's 0 phone during this period, say, July 22nd or one of 18 19 the days that you were at the Rodham residence? 20 No. I don't. Α 21 You don't remember? 0 22 Α No. I don't remember. 50 1 Just as a technical -- when you call 2 somebody to leave a page --3 Uh-huh. Α 4 -- whom do you call? 0 5 You call either -- you call one of the operators. You call either the White House operator, 6 7 or at least my practice is to call the White House 8 operator, or to call the signal operator. And I 9 mean, I don't know if this is a point of 10 clarification but I oftentimes -- just recently, 11 actually yesterday, I sent a page out for someone and 12 it came back to me to call myself. 13 And the White House operator, I take it, 14 you would dial 202-456 and whatever the general 15 operator number is? 16 Α Yes. 17 0 And the signal operator, is it also a 202 18 area code number? 19 Yes, it is. 20 0 456 number? 21 A No. 757. 22 O 757, and then another four digits will

51 1 connect you with a signal operator? 2 Yes Δ 3 Signal is the White House communications --0 There actually is a third way that I know 4 5 of now. I don't know if I knew of it then, but you do 6 a 1-800 number and that also sends you through 7 signal. 8 But at the time, though, you did not have 0 this 1-800 number, at least you personally did not 9 10 know about it? I don't remember if I knew or not. 11 Α 12 0 Do you know if it was in existence at this 13 time? 14 Oh, from what I understand, it's always 15 been in existence When you do call the White House. 16 17 independent of sending a page, independent of sending a page, and without having the direct dial number of 18 a particular party, what number do you call, do you 19 call the White House operator? 20 21 1414? Is that what you mean, the 456 number? 22 57 1 0 Yes. 2 Α Yes. 3 You just call that general number, the 456 4 number, and asked to be patched through to whoever it 5 is that you want to talk to? 6 Α Yes 7 Is there another number you use in order to 0 reach the White House operator that you know of? 8 9 Α No 10 And you -- obviously you have not used any 11 other number except for the 456-1414 number in order to reach the White House operator? 12 13 Well, you can go through signal and they'll patch you through, or you can do the 800 number and 14 that will patch you through. 15 16 But the White House operator itself, the 17 456 number, there is no way -- you don't use any other -- other than the 1-800 or signal, you don't 18 have -- you don't use another means to reach the 19 20 White House operator? 21 Well, no. unless I ask someone to transfer

me. So if I'm calling someone and I need to now talk

54

to the White House operator, they can transfer you to her, or him now. We have now one male operator.

Q So let's now recap so we're completely on the same page. From the time, from July 20th to the

the same page. From the time, from July 20th to the time when President Clinton arrived at the -- in

6 Little Rock for Mr. Foster's funeral, you witnessed

one telephone conversation by Mrs. Clinton, that was on the night of the 20th, toward the end of the night

9 when you left the -- right before you left the Rodham

10 residence?

A No, that's not correct. What I said was that she received a telephone call. I didn't witness the telephone call. She received it. So I don't know, when I walked into the kitchen, if she was still on the phone. Her head was hanging down. She looked very upset. But I did not see her actually

17 chatting on the telephone.

Q You didn't hear anything she said?

19 A Didn't hear anything.

20 Q Except to observe that she was upset?

21 A Yes.

18

22

1

10

11

12

15

16

19

Q You didn't know who it was from?

A No. I did not.

Q Other than this phone call, did you ever see, hear, see or hear Mrs. Clinton receiving or making another phone call during this period between 7/20 and the time when President Clinton arrived in Little Rock?

A I can't recall with any exact memory now.

8 Q So you went back to Washington with

9 Mrs. Clinton after the funeral?

A Yes, I did.

Q Did you work that weekend?

A I believe I might have taken a day off

because I hadn't seen my husband for a while, but Idon't remember.

Q That would be Sunday?

A Yes.

17 Q At the funeral, did you have a conversation 18 with Ms. Thomases?

A I don't remember seeing her there.

Q Actually scratch that. You're right. She was not there.

22 With Ms. Williams.

55 MR. IVEY: I thought you said no trick 1 2 questions. BY MR. DINH: 3 4 With Ms. Williams? 0 5 The only thing that I remember was her sobbing uncontrollably and people comforting her, and 6 7 that's it. 8 0 Did you personally comfort her? 9 Yes. That was a hug. A Did you -- other than that, did you have 10 0 any conversation with Ms. Williams? 11 12 Α No. Do you know who Robert Barnett is? 13 0 14 Α Yes, I do. Did you see him at the funeral? 15 0 I don't remember if I did or didn't. 16 Α Now you flew back with the First Lady to 17 0 18 Washington? 19 Yes, I did. A Were you on the same plane? 20 0 21 Yes, I was. A 22 Were you near Mrs. Clinton? O 56 I'm sure I saw her. I was around her, but 1 2 I wasn't right next to her. Do you know who else -- this is not Air 3 Force One -- right? This is the plane that you took 4 5 from Hawaii? 6 That's what I was trying to remember, yeah. A 7 Do you know who else was in the -- was on the plane with you other, than Ms. Craigham and 8 Ms. Caputo, and the Secret Service people? 9 10 Yes, Secret Service, Chelsea and the President. There were other people who came in for 11 the funeral, but I can't remember with explicit 12 13 memory who was on and who wasn't. 14 Do you remember if Ms. Williams was on 0 15 board? 16 Yes, I believe Maggie flew back with us. Α 17 O Do you remember if Mr. Barnett was on 18 board? 19 Α No, I don't remember seeing him.

During this time and including from the

time President Clinton arrived in Little Rock and to

the time you were on the flight back, did you hear

20

21

 1 any discussions about any files in Mr. Foster's 2 office? 3 A No, I did not. 	
3 A No. I did not.	
4 Q Did you hear any discussion of activities	
5 in Mr. Foster's office?	
6 A No, I did not.	
7 Q Did you hear of any such discussions prior	r
8 to President Clinton arriving in Little Rock?	
9 A No, I did not.	
10 Q Let me go to the next day now, which is	
11 July 26, which is the Monday after presumably o	r
12 Sunday after. And again, were you with the First	
13 Lady?	
14 A That is a long time ago, and I can only	
15 assume yes, I was.	
16 Q Do you remember at any time during the	
17 afternoon of July 26 Mr do you know who Bern	ard
18 Nussbaum is?	
19 A Yes.	
20 Q Do you remember any time on the afterno	on
21 of July 26 Mr. Nussbaum coming to see the First L	ady?
22 A No, I cannot recall that.	
22 A No, I cannot recall that.	58
 A No, I cannot recall that. Q Do you remember at any time Mrs. Clinto 	
1 Q Do you remember at any time Mrs. Clinto	
1 Q Do you remember at any time Mrs. Clinto 2 that day, that afternoon going to Mr. Nussbaum's	
1 Q Do you remember at any time Mrs. Clinto 2 that day, that afternoon going to Mr. Nussbaum's 3 office?	
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59 promise this is the last day on this line of 2 questioning. 3 Is that still 1993? Α 4 0 1993, yes, the next day, on Tuesday. 5 Okey-doke. Α 6 0 I take it again, as is the normal course, 7 you were with the First Lady? 8 Yes, I was. A 9 Did you see Mr. Barnett that day? Q Can I talk to him again, please. Α 11 0 Sure. 12 MR. BRAY: What day is this, Tuesday? MR. DINH: Tuesday, July 27th, yes. 13 14 (Witness conferred with counsel.) 15 (Discussion off the record.) MR. DINH: Can you read back the last 16 17 question. (The reporter read the record as requested.) 18 THE WITNESS: "That day" is July 27th? Is 19 20 that --21 BY MR. DINH: 22 Tuesday, July 27th, exactly one week after 60 1 Mr. Foster's death, yes. I don't have any personal recollection to 2 3 that, but I just came from a grand jury hearing and 4 they told me, I believe it was that day that they 5 said to me that I had gone up and said that 6 Mr. Barnett had asked me to waive him in or that I 7 waved Mr. Barnett in. And so that's the only 8 reference I sort of have that that might have been 9 the day that I saw him. 10 Did the record refresh your memory as to whether you saw Mr. Barnett that day? 11 12 What record? 13 Or that information, actually, that you have come to know today, did that information refresh 14 your memory as to whether you saw Mr. Barnett that 15 day? 16 17 I am very fuzzy about having seen him or 18 not seen him on that day, because I have, you know, seen him on many occasions in the White House in the 19 20 past 3-1/2 years. 21 Right. 0

Let me ask you specifically about those --

```
1
    the procedure for signing somebody in. Let's say I'm
 2
    Mr. Barnett or another lawyer representing the
 3
    interests of the First Lady, and I come in and say I
 4
    need to see -- I have an appointment or I need to see
 5
    the First Lady. I would call up to you?
 6
             You may. You could call several people.
 7
        0
             And then whoever I call or whoever comes
 8
    down then comes down and signs me in?
9
             No, that's not the process. The process is
10
    that, you know, once you know who you're going to
11
    wave in, you have to get their date of birth, their
12
    full name and for most social functions you have to
13
    have the Social Security number. But if it's not a
14
    social function you generally don't. And you call
15
    Waves and I think it's handled by uniform division
16
    officers, and they check a person's background. And
17
    then once the person gets to the gate, they have to
18
    show identification and then they get a little badge
    that allows them to come in.
19
20
             And then -- but you, yourself, do not have
21
    to be present at the entrance?
22
             To receive the person?
                                                              62
 1
        Q
             Yes.
 2
             You don't have to be right at the entrance,
 3
    right at the gate. A person could walk up the
 4
    walkway or they could meet you in a foyer. It
 5
    depends upon which gate you're coming in as well. If
    you have a specific gate it's a little easier to
 6
 7
    describe what the process is.
 8
             Some gates require you to be at the -- to
 9
     be there in order to receive the person?
10
             Well, from what I understand the southwest
     gate does.
11
12
             The southwest gate being the 17th Street
         0
13
     entrance?
14
         A
             No. No, that's the OEB, the Old Executive
15
     Office Building, east street entrance. The north
16
     west gate, generally if someone's coming in for me,
17
     if they see me halfway down the driveway or even at
18
     the door, they'll let the person walk up.
19
         0
              Are those the only two gates to the White
```

No, there's the east gate, you can come to

the east gate. They sometimes put you in a holding

20

21

22

House?

63 room there. As well, you don't have to be the person 1 who waved them in, to receive the person. 2 3 Right. 0 4 Α Someone can receive them on your behalf. But somebody has to make the call to the 5 0 Secret Service requesting for them to be waved in? 6 7 Yes. How long approximately does this, do you 8 0 9 have to make this call before this person is admitted 10 in? 11 It varies. Depends upon who is actually doing the waving. It could be a few minutes, where 12 they put it through right away, or they might put it 13 off and give you some hassle and make it 15, 20 14 15 minutes. Really. The uniform division has a check 16 0 on your waving in somebody? 17 They just put it off. I guess they have 18 19 priority things. So your guests would be waiting at the gate 20 21 during this time, during this period? No, they don't necessarily need to be --22 64 1 well, yeah, I guess. 2 Or they could be on their way or something? 3 Yes, they could be on their way. Α 4 But the guest doesn't have to be there to O 5 initiate the call? 6 Α To be at the gate to initiate the call, no. 7 0 It depends on who you are. Different people get different treatment depending on whatever 8 position or status or familiarity within the Secret 9 Service? Is that what you mean by depends on who you 10 are as to the amount of time it takes? 11 12 No, it depends on who the person in Waves is. If they're a quick person, you get in right 13 away. If they delay things, they delay it. 14 So it could be as quick as a minute; it 15 could be as long as 15 minutes? 16 17 Uh-huh, yes. Α 18 And you don't recall on 7-27 putting in a call to Waves to admit Mr. Barnett? 19 I very well may have. I've waved him in on 20 21 several occasions.

Let me share with you record S 12482 and

```
65
 1
    ask you to take a look at the last entry on the log.
2
    Have you ever seen a similar record before?
 3
             No.
        A
4
             Let me then advise you that these were
 5
    produced to us by the White House and these are
 6
    apparently the record of the wave system. And to
 7
    read it, there is a line up at the top designating
 8
    visitor, visitee, location of the visit and the
9
    requestor and the time and the date. Can you, given
10
    that guideline, can you read for me the last entry
11
    there?
12
             It says "Barnett, Robert. First Lady,
13
    U90150, 1500, 930727, W residence Marshall." I can't
    read the last, "00" -- something.
14
15
             That's okay. And approximately following
16
    the guideline up at the top, that says that you
17
    requested for Mr. Barnett to be waved in at
18
    approximately 3:00 on July 27th, 1993 to see the
19
    First Lady in the residence and the location, I
20
    believe, is the W, marking the west -- west gate or
21
    whatever entrance that would be. Does this refresh
22
    your memory?
                                                              66
 1
             No, it really doesn't.
        A
 2
             Do you remember any conversation with the
    First Lady during that day regarding a visit by
 3
 4
     Mr. Barnett?
 5
             No, I don't recall any conversations with
        Α
 6
     Mrs. Clinton regarding a visit by Mr. Barnett. But
 7
    what I would like to sort of add is that, generally,
 8
    whenever I make a phone call or someone makes a phone
 9
    call on my behalf, they generally assume it's for the
10
     First Lady.
11
        0
             And so that's why the visitee is the First
12
     Lady?
13
             It very well could be.
         A
14
         0
              Mr. Barnett would have no independent
15
     reason to go see you?
16
             No. On July 27th?
         A
17
             On July 27th, 1993.
         O
18
         Α
             No, not that I know of. Not that I
19
     remember.
20
             Does he have any reason to go see you
         0
     subsequent to that date?
21
```

Here at the White House?

- 1 Yes, Mr. Barnett?
- 2 No, not that I ever remember. He may have 3 actually visited me on -- just to pass on materials 4 for Virginia Kelly's book.

5 Do you remember having any conversation 6 with Patti Solis on that day regarding a visit by

7 Mr. Barnett?

8

- Α No. I don't.
- 9 How about having a conversation with

Ms. Solis about a visit by Ms. Thomases? 10

- No. I don't. 11
- 12 With the First Lady about Mrs. Thomases? O
- 13 Having conversation with the First Lady --A
- 14 O With the First Lady about Mrs. Thomases

15 visiting?

- 16 No. I don't. Α
- 17 Do you recall seeing Ms. Thomases at the 18 White House residence or in the White House on that
- 19 date in the afternoon?
- 20 I don't recall.
- 21 Did you see Maggie Williams that day in the 22 residence?

68

- 1 I very well may have. I don't recall.
- 2 Again, I have sort of learned more about this day
- through testimony I've heard in front of the Senate 3
- committee than I recall from my own personal 4
- recollection. 5
- 6 Right. Right. So, subsequent you've come 7 to knowledge regarding their activities on that day, 8 but you don't have any independent recollection of
- 9 that?

- No. I do not.
- 11 So would it help for me to ask you, to tell 12 you that Mr. Barnett and Ms. Thomases and
- 13 Ms. Williams were together on that day, perhaps, in
- the White House. Do you see, did you see the three 14
- 15 of them together on that day or any other day, does
- 16 that refresh your memory?
- No, I don't personally recollect seeing the 17 18 three of them there.
- 19 Did you hear any talk about files being 20 transferred to Mr. Barnett that day?
- 21 Subsequently, in the newspapers and on 22 television.

69 1 When subsequently, approximately? 2 Recently, the time contemporaneous? 3 Oh, no, I don't remember. Α But from no independent source from your 4 0 5 work at the White House? 6 No A 7 0 Do you remember seeing Diane Blair there 8 that week? A I don't remember for sure, but I believe 9 10 that she was a house guest or something like that. She was a house guest at the time. Do you 11 remember helping her out with any of her incidental 12 13 needs, as you testified earlier is your normal course 14 of duties? 15 A No, she's generally familiar with the 16 house. 17 0 Is she a frequent guest? 18 From when until when, at that time was she Α 19 a frequent guest? 20 O At that time. 21 Α I believe that she'd only been there a 22 couple of times. 70 But sufficiently familiar that she didn't 1 2 need your help. 3 Α Yes. 4 MR. BRAY: Can I ask a question on that? 5 (Discussion off the record.) 6 BY MR. DINH: 7 Do you on occasion make phone calls to 8 Ms. Thomases on behalf of the First Lady? 9 I make phone calls on behalf of the First 10 Lady to many people. 11 Including Ms. Thomases? 0 12 Including Ms. Thomases. Α Do you recall making any such telephone 13 calls on behalf of the First Lady to Ms. Thomases on 14 15 July 27th, 1993? Let me clarify that if I'm making a phone 16 call, I'm returning it. I'm not, you know, dialing 17 it and then handing her the receiver. I'm generally, 18 you know, Susan's called, hey, she can't get with 19 20 you, she'll get with you later or something like

Do you call for more specific task like

21

22

that.

1 call Susan, tell her I'll be there at X time, not 2 necessarily returning a phone call, but delivering a

3 brief message?

A Yeah, I will call like I do with most people for Mrs. Clinton. If I return a message, I'll say, you know, she's in a meeting and she'll be back, she'll be back in the residence in a few minutes or

8 whatever.

Q Do you remember either returning a call or making a short phone call to deliver a message to Ms. Thomases on the 27th of July, 1993?

12 A No, I don't recall.

13 Q Where is your office located in the White

14 House?

15

16

A My office is located in the east wing.

O In the east wing of the White House itself?

17 A Yes, it is.

18 Q What floor?

19 A The second floor.

Q The second floor. And the residence is

21 also on the second floor?

A No, no, no. The residence is its own

1 entity and the east wing is a corridor that is

2 extended from the residence. I think it was added by

3 Franklin Roosevelt for housing the military in the

4 1940s. And then there are, I believe, three levels.

Q So the east wing being on the east side of the building, the west wing being on the west side of the building, in the center is the residence?

8 A Yes, it is.

Q And it's connected by this corridor?

10 A Yes.

9

13

14

11 Q And you're on the second floor of the east 12 wing?

A Of the east wing.

Q Of the east wing. There is access to the

15 White House residence from the east wing?

16 A Well, you go through the ground floor of 17 the east wing, and then you enter a door and you go 18 to the ground floor of the residence. The residence 19 is the original building that George Washington had

19 is the original building that George Washington had 20 built, and then there were all the additions. So

21 once you go through the door, through the corridor,

22 you are into the residence.

73 1 I apologize for all the minutiae. I've 2 never had the privilege of being in the White House. 3 I understand. 4 MR. BRAY: Let's break for dinner and go 5 over right now and feed you. 6 MR. DINH: That was on the record. I may 7 take you up on that. 8 BY MR. DINH: 9 So the only entrance to the residence is 10 through the ground floor? 11 No. There is another entrance on the state floor through the north portico. That's the front 12 13 door that everyone sees. 14 Do staff members use the state, the state 0 15 floor door? 16 Α Yes. Q 17 So both are freely accessible? 18 Α Yes. To staff members or those who have access 19 0 20 to the White House residence? 21 Yes Α 22 0 Is access through the White House residence 74 1 limited to certain staff members or do all staff 2 members have access? 3 If you have a blue pass. Not all White House employees have a blue 4 0 5 pass? 6 Α No. 7 I take it you have a blue pass. 0 8 Α Yes, I do. 9 0 Now when you pass, when you pass through either on the state floor -- let's call that the 1.0 11 state door -- or the ground door, at both of these 12 places your entry is recorded? No. it's not. 13 Is it recorded at either one of those 14 15 places? 16 Yes, it is. On the ground level there is a 17 guard who is supposed to mark who enters, who goes up into the residence. 18 19 Q Checks the identification, mark down who 20 enters, check the access? 21 No, generally does not check

identification, and may give a call to the usher's

office and say I've got, you know, a blonde-haired person who is going up, you know, and then the elevator stops on one, or the person, if they're going up the staircase, has to stop on one and someone will see them there.

Q What about from the state door, what's the procedure there if you were to walk to the White House residence through the state door?

A Again, the ushers would see you pass by and if you were trying to go upstairs or, what, if you just want to enter the first floor?

Q Second floor, upstairs.

A If you wanted to go upstairs, generally the ushers would see you and make note.

Q Okay. That's the usher at the state door, not Secret Service guard?

A No, there is a guard at the door, but he doesn't write anything down, no.

19 Q The guard at the door at the ground floor 20 does write things down, no?

A On most occasions I have seen them write things down. Often I have not seen them write things

down.

 Q But they always call, if the person wants to go upstairs, they would call up to the ushers upstairs and describe the person or tell the exact identification of the person and to have an usher meet the person upstairs?

A No, they don't. At times, because I have -- there are many times that I've not seen this happen. But if they remember, sort of, procedure they'll pick up the phone and say I have a person going upstairs, you know.

Q And then the usher would meet that person?

13 A The usher would make sure, look on the 14 elevator to see, oh, you know, it's me, hi, how are 15 doing. And somebody else, generally they have 16 business in the White House.

Q Now even if it's just the elevator up to the first floor, or does this only, this procedure is only for access up to the second and third floors?

20 A No, all levels.

Q At all levels? A Yes.

77 1 Q Any level beyond the ground floor. 2 Α Yes. 3 0 What's on the ground floor? 4 The ground floor has the map room, the 5 diplomatic reception room, the vermeil room and the library. Also I think there is an accounting room, a 6 7 large corridor and access to the kitchen, to the back 8 area where the carpenters and florists are. 9 And then the first floor is where the state 10 dining room is and the kitchen and all that stuff? 11 No kitchen is on the first floor. 12 0 No kitchen. 13 There's a dining room, there is a pantry, Α 14 there is the state dining room -- there's a family 15 dining room and there's a state dining room and the 16 red room, the blue room, the green room, the east 17 room, the grand fover and --18 The third floor is -- I mean, the second 19 floor is where the Lincoln bedroom is? 20 The second floor is where the Lincoln 21 bedroom is. 22 Now let's go to the third floor. Is there 0 78 1 anybody controlling access between the second and 2 third floor? 3 A No, there is not. 4 So once you're up to the second floor, you 5 can go freely up to the third floor? 6 Yes. Α 7 0 Can you describe for me the third floor, 8 what is on the third floor? 9 You want me to tell you in detail what 10 rooms are up there? 11 Q Just what rooms are up there, yes. 12 Α There are guest rooms on the third floor --13 0 How many guest rooms? 14 Α Are we going to note that someone came into 15 the room. 16 MR. DINH: Yes. 17 MR. BEN-VENISTE: Hello. Richard 18 Ben-Veniste. 19 THE WITNESS: Hi. Capricia Marshall. Nice 20 to meet you.

MR. BEN-VENISTE: Mr. Bray?

MR. BRAY: Bray is my name.

21

79 1 MR. BEN-VENISTE: John. 2 MR. BRAY: That's the one. 3 MR. DINH: Can you read back the last 4 question, please. 5 (The reporter read the record as requested.) 6 THE WITNESS: I think there are approximately -- wait a minute. I can do it. 7 8 (Pause.) 9 Presently eight. BY MR. DINH: 10 11 Are these occupied most of the time, are 12 some of them occupied most of the time? 13 Yes. Α At least there is one guest in there. 14 0 Well, it also depends upon which time 15 16 period you're speaking of. If you have a specific 17 time period --18 Q In general. 19 Well, no, it really does. Because the holiday time period, they're filled to the gills and 20 21 other times they may not be filled at all. 22 Sometimes there is nobody staying there? 80 1 At times there is no one staying there, A 2 yes. 3 Okay. Beyond the guest rooms, what else is 0 4 up there? 5 At what time period? The configuration of these rooms have changed over the years so it's --6 7 Okay. Why don't we, why don't we start 8 with a rough -- no, why don't we start with the configuration as of last year July and August of 9 1995? 10 July and August of 1995. On the east side 11 A of the house there is a -- there was a sort of a moon 12 shaped room that was used as a box storage, primarily 13 Chelsea-knickknack-item type of room. It had a day 14 bed in it and it has a small balcony that goes up 15 around it. But lots of box storage, games and 16 17 various other items. And the other significant room on the third floor is a solarium. You need to go up 18 19 a ramp and it's a round room where there are windows on most sides of the room except for, of course, the 20 ramp doorway area. It's a gorgeous view. 21

Does it look out to Pennsylvania Avenue?

		8
1	A No, that's the south side of the house. It	
2	looks out to the Washington monument. That's what	
3	makes the view so great, you can see all the	
4	monuments. And as you go down past the rest of the	
5	guest rooms towards the west side of the house, at	
6	that time, there is an office room that was being	
7	used by Mrs. Clinton to write her book. And sort of	
8	not quite next to, but the next door over on the west	
9	side of the hall is the book room. You enter that	
10	room and there's a book room and	
11	Q So the hallway is north-south is the	
12	hallway north-south or east-west?	
13	A The hallway is east-west.	
14	Q And then you are walking west, you are	
15	walking west and do you look left or right to find	
16	the office?	
17	A You look left.	
18	Q You look left to find the office and then	
19	you have a little office. And then past the office,	
20	but next to it, is the book room?	
21	A Yes.	
Z I		
22	Q And are there rooms further if you walk	8
	Q And are there rooms further if you walk	8
22		8
22 1	Q And are there rooms further if you walk along the hallway or does the hallway end with the	8
1 2	Q And are there rooms further if you walk along the hallway or does the hallway end with the book room?	8
1 2 3	Q And are there rooms further if you walk along the hallway or does the hallway end with the book room? A The hallway ends with the book room. Q So that's the last door on the left-hand	8
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83 1 Let's walk around the hallway. Other rooms on the other side of the hallway facing these two 2 3 rooms? 4 Facing which two rooms? Α 5 0 Facing the entrance to the office and the 6 entrance to the book room on the right-hand side of the hallway, if you are walking west, you said on the 7 left-hand side is the door to the office? 8 9 Α Ves And then next to that is the door to the 10 0 11 book room? 12 Α Yes. Are there doors to the right-hand side 13 14 also? 15 No, there's a wall. Α There's a wall. So the White House starts 16 O and ends with that hallway? 17 There is a door that leads you down to 18 19 the -- down the staircase. 20 To the second floor? Back down to the second floor. And there 21 Α 22 is also, as you go around the staircase, you enter 84 another doorway that leads you into the linen room 1 2 and into the back north corridor of housekeeping 3 rooms and storage facilities. Okay. All right. Now, let's focus our 4 5 attention specifically on the book room itself. 6 Okav. Α 7 And let me just -- actually I will give you, thank you for the suggestion, Glenn, let me just 8 ask you to sketch out for me -- if you could take a 9 moment, to sketch out for me the layout of the book 10 11 room, and let me just mark it this way so that I don't get confused. 12 13 MR. BRAY: Let me ask you this. Do you not have actual diagrams of these rooms as such exist? 14 15 MR. DINH: No. I know, but we don't have actual diagrams. We'd love the blueprints, but 16 17 unfortunately we do not have that. Let me just mark that, and that's the west and the east. 18 19 THE WITNESS: Can I use her pen. (Discussion off the record.) 20 21 BY MR. DINH:

On the record again. Ms. Marshall, you've

85 1 made for us a sketch here that is labeled Exhibit 2 Marshall 1, and it is a sketch, to the best of your recollection and knowledge, of the book room during 3 the time of July and August 1995; is that correct? 4 5 That is correct 6 0 And it contains not only the diagram of the 7 room, but also the materials and furniture and other 8 materials in the room at the time or moved in -- that may have been in the room at the time between in July 9 10 and August of 1995? 11 Furniture? Α 12 0 Well, tables and --13 Α There's a table and a cart and some --14 Right. Other material, not just merely a 15 layout of the room, but other materials that were in 16 the room. 17 Α Yes. 18 Now, can you tell me in your own words what 19 these materials are. Are these there currently? 20 A Well 21 0 The materials? 22 Α Those same exact things are not there 86 1 currently. 2 But these are what you remember to have 3 been there in July and August of 1995? 4 Within that time period on various moments, 5 ves. 6 Sometimes they were moved in, sometimes 7 they were moved out, you aren't exactly sure when 8 they were there. 9 Exactly. There were certain items though 10 that continued to stay throughout the entire time. 11 And those items are? 0 Well, here, this computer and the computer 12 13 rack that it's on, it's sort of a rolling rack type 14 deal, and that was in there. It continues to be in 15 there all the time. 16 This long, six-foot table is generally in 17 there all the time. 18 That is near the entrance to the room from 0 19 the hallway?

No, it is against the west bookshelves and

it was most near the northwest side of the room.

20

21

22

0

Okav.

87 Northwest corner of the room. So those 1 2 are --And there's a door there that goes to the 3 O 4 hallway? 5 It goes to the servants' enter/exit area. The typewriter has been there continually. A cart of 6 some form is generally in the room, stacked high with 7 gifts and stuff and other items that come off of the 8 road. This is generally where my follow-up cart is 9 put after trips. The videos are always there. The 10 11 filing cabinets have been there since I can remember. The bookshelves and the video shelves were 12 put in in early 1993, so at that time they're there. 13 Now they're there. 14 So the crib and the baby carriage is no 15 16 longer --17 I know that right around that time, Tyler, the President's nephew was in town, and at times we 18 store the crib and we store the baby stroller in 19 20 there. So exactly what date it was put in and what date it was put out, I don't know for sure. 21 The table, however, has been in there this 22 88 entire time? 1 2 Α The table was in there the entire time. 3 Since July until the present? 0 4 Well, I can't -- not until the present 5 time, until today? Yes, is the table still there today? 6 0 7 Yes, actually it was, from that moment 8 until today. The table has been there? 9 0 10 Α Yes. 11 0 And that's the only table in the room? Well, there's a small sort of shelf type 12 table that extends from the bookshelves. 13 Built in. 14 0

A This table is generally used for putting -- or it was just holding books, newspapers,

And what is this table used for?

But that's the only freestanding piece of

Yes, except for, I mean the cart sort of

15

16

17

18

19 20 Α

Right.

functions as a flat surface.

furniture that is a table in the room?

		89
1	miscellaneous items, newspaper clippings, magazines,	
2	photos, memorabilia, things that were supposed to be	
3	looked through and put away by Carolyn Huber. She	
4	was doing a library filing system. And she was	
5	trying to put one together and she just, sort of,	
6	never finished it or got around to it.	
7	Q Is she the only person working on this task	
8	of this filing and cataloging?	
9	A No, she has a couple of volunteers, I	
10	think, that were helping her with this at one point.	
11	And I think I recall that the one woman started a	
12	class or something like that, and so she stopped	
13	working on it. So things started to pile up and pile	
14	up and pile up.	
15	Q I see you marked, I guess, underneath the	
16	table there are some boxes, are they underneath the	
17	table?	
18	A Today are they underneath the table or	
19	then?	
20	Q Then are they underneath the table?	
21	A Yes, then they were underneath the table.	
22	Q Today?	
		00
1	A No there are no hoves undermost the	90
1	A No, there are no boxes underneath the	90
2	table.	90
2 3	table. Q There are boxes underneath the table. Were	90
2 3 4	table. Q There are boxes underneath the table. Were there boxes around the table?	90
2 3 4 5	table. Q There are boxes underneath the table. Were there boxes around the table? A Yes, there are boxes around the table.	90
2 3 4 5 6	table. Q There are boxes underneath the table. Were there boxes around the table? A Yes, there are boxes around the table. Q And what did these boxes contain?	90
2 3 4 5 6 7	table. Q There are boxes underneath the table. Were there boxes around the table? A Yes, there are boxes around the table. Q And what did these boxes contain? A The same type of items, books,	90
2 3 4 5 6 7 8	table. Q There are boxes underneath the table. Were there boxes around the table? A Yes, there are boxes around the table. Q And what did these boxes contain?	90
2 3 4 5 6 7 8 9	table. Q There are boxes underneath the table. Were there boxes around the table? A Yes, there are boxes around the table. Q And what did these boxes contain? A The same type of items, books, miscellaneous items, newspaper clippings, magazines, various items like that.	90
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2 3 4 5 6 7 8 9	table. Q There are boxes underneath the table. Were there boxes around the table? A Yes, there are boxes around the table. Q And what did these boxes contain? A The same type of items, books, miscellaneous items, newspaper clippings, magazines, various items like that. Q Now these bookshelves that you have drawn around the room, are they filled?	90
2 3 4 5 6 7 8 9 10	table. Q There are boxes underneath the table. Were there boxes around the table? A Yes, there are boxes around the table. Q And what did these boxes contain? A The same type of items, books, miscellaneous items, newspaper clippings, magazines, various items like that. Q Now these bookshelves that you have drawn around the room, are they filled? A Some are with books, not filled completely,	90
2 3 4 5 6 7 8 9 10 11 12	table. Q There are boxes underneath the table. Were there boxes around the table? A Yes, there are boxes around the table. Q And what did these boxes contain? A The same type of items, books, miscellaneous items, newspaper clippings, magazines, various items like that. Q Now these bookshelves that you have drawn around the room, are they filled? A Some are with books, not filled completely, no. That's the project, is to fill the shelves.	90
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91
 1
        A
             Do you mean the other --
             In the residence itself.
2
        0
3
             Well, the Clintons have a lot of books.
    And so they, any available bookshelf space they have
4
    filled with it. On the third floor along the north
5
    wall, there are shelves all along there that are
6
    filled with books. Downstairs in the second floor
7
    there are shelves filled with books and the
8
    President's study and their bedrooms, there are
9
10
    books.
             So this is one of the many places where the
11
        0
12
    Clintons keep their books?
             Well, no, these are, this is general
13
    storage area. This is sort of the stuff that you
14
    don't want to, you know, you just put onto the shelf
15
    because it's nothing, you're not really going to look
16
    at day to day or you might never look at.
17
        O Can you tell me -- oh, and you have doors
18
    marked here going to the main hallway, to the
19
    exercise room, to the linen room and then to the
20
21
    elevator and butler, cook, and valet services and
    then there's another small hallway in the back
22
                                                              92
 1
    there.
 2
        Α
 3
             That's the back hallway?
        0
 4
        Α
             Yes.
 5
             So this is a walk-through room?
        0
 6
        A
             This is a passageway.
             Approximately how big is this room?
 7
        0
             Oh, I don't know in numbers, in feet. I
 8
     mean, it's a little smaller than the room we're in
 9
10
     right now. I don't know if that helps you.
11
        0
             Does 12 by 25 sound right?
12
              I'm not very good at those guesstimations.
         Α
             Well, we'll leave it at that. Because I,
13
14
     too, am not very good at guesstimations, so I don't
15
     know what the length of this table is.
16
             MR. IVEY: We can just say it's 640A of the
17
     Hart building and maybe come up with the numbers from
18
     the architect if necessary.
19
             THE WITNESS: Do you want me to describe
20
     what the room looks like?
             BY MR. DINH:
21
```

Well, better than your diagram here?

		93
1	A No, just the only other thing to note would	
2	be that there's dim lighting in there. There is	
3	these sort of pinpoint little light-things.	
4	Q Like a modern track lighting type of bulbs?	
5	A Yes, but they're these small and they	
6	look sort of peachy colored and the floor has got,	
7	like, plank woods. It's unfinished wood floors.	
8	Q Is it cleaned on a regular basis?	
9	A No, no.	
10	Q So it is a storage area.	
11	A It's like your attic. It's like your mud	
12	room. It's like, you know, the back of your garage.	
13	It's a place where you just sort of put things until	
14	you get to it.	
15	Q Does anybody work in there?	
16	A I do. I mean, I don't always work in	
17	there, but when I have a moment, that's when I go up	
18	and I do work off of the cart.	
19	Q You work off of the cart because that's	
20	where you put your follow up stuff?	
21	A That's where the follow-up stuff is put for	
22	me to get to.	
==	10 841 101	0.4
		94
1	Q Is there a phone in there that you use?	94
1 2	Q Is there a phone in there that you use? A Yes, there is a telephone in there.	94
1 2 3	Q Is there a phone in there that you use? A Yes, there is a telephone in there. Q Do you sit at a chair by the cart?	94
1 2 3 4	 Q Is there a phone in there that you use? A Yes, there is a telephone in there. Q Do you sit at a chair by the cart? A No, I generally stand and just dig through 	94
1 2 3 4 5	Q Is there a phone in there that you use? A Yes, there is a telephone in there. Q Do you sit at a chair by the cart? A No, I generally stand and just dig through boxes and look into items.	94
1 2 3 4 5 6	Q Is there a phone in there that you use? A Yes, there is a telephone in there. Q Do you sit at a chair by the cart? A No, I generally stand and just dig through boxes and look into items. Q And so based on this workstation you have	94
1 2 3 4 5 6 7	Q Is there a phone in there that you use? A Yes, there is a telephone in there. Q Do you sit at a chair by the cart? A No, I generally stand and just dig through boxes and look into items. Q And so based on this workstation you have on there, would you characterize yourself as the	94
1 2 3 4 5 6 7 8	Q Is there a phone in there that you use? A Yes, there is a telephone in there. Q Do you sit at a chair by the cart? A No, I generally stand and just dig through boxes and look into items. Q And so based on this workstation you have on there, would you characterize yourself as the person who is the primary user of this space?	94
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And the cart is not, I don't put items on

95 it, generally. Generally, other people put items on 1 2 it and roll it in. Who else has -- who else uses the room on a 3 regular basis or has access to the room in a regular 4 5 basis? 6 Α During this time period? 7 O During this time period. 8 During the July, August 1995 time period. Α 9 Uh-huh. 0 In the July August 1995 time period, there 10 were construction workers who would pass through 11 there, supervisors of construction workers, the 12 residence staff carpenters, plumbers, painters, 13 14 maids, butlers, valets, cooks, the ushers, the doormen, the operations guys, the house guests, 15 friends of house guests, Chelsea's friends, family 16 members, friends of family members, First Family. 17 Does Ms. Huber come in on a regular basis? 18 19 Ms. Huber. Not on a regular basis. Not to my knowledge does she come in on a regular basis. I 20 21 have only seen her on several occasions. Okay. But you said that the work that is 22 96 there on the six-foot long table is there intended 1 2 for Ms. Huber in her library cataloging project? Yes, it is intended for her and it keeps 3 4 piling up. And it's not to say she's careless or anything like that, it's just to say that it's a 5 6 rainy day project. It's something you finally get 7 8 What about the during this period, were the 9 assistants who helped Ms. Huber on this project 10 around? 11 Α During this time period? 12 Q Uh-huh. 13 I don't recall them being around, no. A Let's start with the first group of people 14 in your testimony. The construction workers, the 15 carpenters and their supervisors. What sort of 16 construction are they doing? 17 Actually, there were two things I 18 specifically recall going on during that time 19 20 period. 21 MR. DINH: Off the record. I'm sorry.

(Discussion off the record.)

MR. DINH: Can you read back the answer. 1 2 (The reporter read the record as requested.) 3 BY MR. DINH: 4 0 Can you continue? 5 There is HVAC system project going on and 6 workers were working in the exercise room, in the 7 southwest corner of the room. They were entering a 8 cubbyhole area and doing work within that cubbyhole 9 area, and they moved the TV out of the way. And I 10 remember that because they ripped the wall paper and, so. But they would generally come in from this 11 service hallway, cross the book room and enter into 12 13 the exercise room constantly, back and forth, back 14 and forth. And another project that was going on, not because it was intended, but another -- a worker was

And another project that was going on, not because it was intended, but another -- a worker was working in the attic area of the house -- or it's just above the space, it's like a crawl space I guess, again, that's above the book room -- and maybe slipped or footing or something like that, but started to come through the ceiling. And paint, plaster chips came down and I was in the book room at

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that time. And I thought this man was going to fall through on my head, and I ran out of the room and I went downstairs and I told the ushers that someone was coming through the ceiling. So they stopped all the work above there and they -- it was like, I think, a day or two later they asked me to help move the cart.

So the operations guys came up, we moved

So the operations guys came up, we moved some stuff out. We moved things close into the west side of the room so that they could access the northeast corner of the room, because that's where the guy sort of entered through. We threw sheets over the table and over the filing cabinets so dust wouldn't get in any of the stuff, on any of the books or anything like that, and everything else was pretty much moved to the wayside or out of the room.

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Q Do you recall when, approximately, that this man almost fell on you?

19 A Yeah, I think it was the last week -- it 20 was the last week in July and --

Q And did he -- he entered through the ceiling access in the book room, he entered the crawl

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1
    space above?
             No, no, no. He must have entered through
2
3
    some other area.
             Is there a ceiling access in the book room?
4
        0
             No, there is no ceiling access in the book
5
        Α
 6
    room.
             So the second construction project to which
 7
        0
    you were referring, is this effort to --
 8
9
        Α
             Repair.
             -- repair the ceiling?
10
        O
11
        Α
             Yes.
        O How long did that take?
12
13
             A couple days. A couple days.
        Α
             And what about the other project, the HVAC
14
        0
    project, when did that start? Was it before or after
15
    your fall -- or somebody else's fall?
16
             It was before the fall and during and a
17
    little bit after. They were going through there for
18
    quite some time. From what I understand, they were
19
    trying to access various areas all around the third
20
     floor, and that was one of the integral areas.
21
             And do you recall approximately how long
22
                                                             100
 1
     this lasted?
             Oh, a few weeks. Maybe, you know, three,
 2
 3
     four weeks.
             So it started somewhere in mid-July and
 4
        0
     went through somewhere in mid-August?
 5
              Yes, but picked up, though, with other
 6
 7
     projects in mid-August because the Clintons were
     leaving. They went to Wyoming. And so, when the
 8
     Clintons are leaving to Wyoming, they pretty much
 9
     tore the whole third floor apart.
10
11
              But prior to that there was only these two
12
     construction projects?
13
              That's the one thing I remember going on.
     Because I was in this room preparing for their trip
14
     to Wyoming as well, and Mrs. Clinton's possible trip
15
     to Beijing. And we had to sort of use this room as a
16
     preparation room because most of the other rooms were
17
18
     already being torn up in sort of anticipation of
19
     their trip to Wyoming.
             Also, at that time in the computer room,
20
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Mrs. Clinton was in the, I call it the computer room,

and there were staff members who were away on a

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- preadvanced trip so I pretty much stationed myself
 there to answer the telephone and, you know, give her
 messages back and forth and she was working with her
 editor. So I pretty much sort of stationed myself up
 there to kind of staff her.
 - Q The maids and the butlers and the doormen. Actually the maids and the butler, do they go through that room, basically in order to gain access either to the living room or the hallway to the elevators in the back?
 - A They will. They'll go through this area.
- 12 Q The main hallway to the back hallway?

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- 13 A Yes, there is another doorway here. But 14 they will, they'll go through the book room to get 15 out to the main hallway. They'll go through the book 16 room to get to the living room. They'll go through 17 the book room to get to the exercise room.
- 18 Q Do any of these people, except for the 19 construction workers who were repairing the damage in 20 the book room itself, do any of these people 21 regularly stop and linger in the book room itself?

22 A Well, I've walked in -- I've walked in and

102

I've seen construction workers having coffee breaks.

Q In the book room?

A Yes, they'll be setting down their

4 Styrofoam cups and things like that.
5 O Are these the same construction

- Q Are these the same construction workers who were fixing the ceiling, or are these the HVAC construction workers?
 - A HVAC construction workers, generally.
- 9 Q Is there a coffee maker in the room?
- 10 A No, no. I mean, they'll just sort of be 11 hanging out. I've found Styrofoam cups in there.
- 12 I've found banana peels in there. Things like that.
- 13 I'm sorry, what was the --
- Q The maids and the butlers, do they also linger or do they pretty much use it as a passageway?
- 16 A Yes, they'll use it as a passageway. Also, 17 if I'm in there, they'll hang around and chat with me 18 and we'll talk about stuff and then they'll go on to 19 their other business. But they don't have any reason
- 20 to, like, specifically do anything.
- Q They have no specific duties or functions that would call for them to be in the book room other

than chatting or passing through? 1

Sort of, you know, sometimes they'll sit on top of the table, push over some stuff and sit on the table and hang out with me.

What about the doorman, did you say the doorman and the ushers?

Pretty much the same functions. The doormen, they'll come up and go through it.

Use it as a passageway?

Yeah 10 Α

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And you say guests and families of guests.

And what use do they have to pass through the book 12 13 room?

14 Α Well, I mean, I think that guests and 15 friends of family and friends of guests, they're generally curious people. Let's face it, they're in 16 the White House. So they'll poke around looking 17 18 around everywhere.

And they can do so unescorted?

20 Oh, absolutely. The Clintons want their home to be an open place. They've always wanted that

from the get-go. They want this place to be a 22

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comfortable place for their daughter and their daughter's friends. She got there when she was 13 years old, just turned 13, and they even asked Secret Service guards to go down from the second floor so she wouldn't run into them with squiggly things in their ears and guns.

So they really want this to be -- and they also are people who have been in the public life for a long period of time. They've lost their, sort of, sense of privacy and people go in and out. They just do. They exit and entrance. And also there is videos in this one corner, there are video movies, and so people come in all the time to borrow video movies. Get them, and the guest rooms have VCRs. And they'll go in and get the video and go back to

15 their room and watch it. 16

17 So it's a safe assumption, if a guest is in the White House, then he or she has access to and 18 would have would probably have reason to, because of 19

20 the video and other curiosity factors, to go to the

book room? 21

Absolutely, and also to go to the exercise

105 room. Everyone is welcome to use the exercise room. 1 2 0 It is not limited to anybody? 3 Α No. no. 4 O Is that the only exercise room in the 5 residence? 6 Yes. Α Is it a fairly comprehensive exercise room? 7 0 8 Oh, yes, there is a great treadmill, Stairmaster, and I don't know what those bikes are 9 10 called. MR. BRAY: Recumbent. 11 THE WITNESS: Recumbent bikes. They give 12 13 great back support system. There is lots of weight 14 lifting. There are about four or five machines of weight lifting bars and weights and things like 15 that. Then there is a whole rack of weights. There 16 is a bench, there is those sliding things that you 17 18 get on and you sort of slide back and forth and you 19 do aerobics. Those are great. BY MR. DIHN: 20 21 So do guests, do guests on occasion use 22 this exercise room? 106 1 Α Yes. 2 Who else uses the exercise room? Q 3 Α Family. 4 0 Staff? 5 Yes, staff uses the exercise room. Α Attorneys of staff? 6 Q 7 Not vet. I don't know, you know. Α 8 (Laughter). 9 O Family and guests and staff? 10 Α Yeah. Does President Clinton exercise in the 11 0 12 exercise room? 13 Α Oh, yes. 14 Does he do so on a regular basis? 0 I don't know about a regular basis. I 15 mean, what do you mean by regular basis? 16 17 0 Two times a week. 18 Oh, you know, someone will say yeah, he's

Q But it's a regular regime; it's not, say, when you say he's exercising, everybody goes gaga?

he's actually exercising up there.

upstairs in the exercise room, but I don't know if

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107 He tries. We all try. I think he tries. 1 2 He jogs a lot. MR. IVEY: Can we go off the record for a 3 4 second. 5 (Discussion off the record.) BY MR. DINH: 6 What about the First Lady, does she 7 exercise on a regular basis? 8 9 As well she tries, you know, to go exercise. 10 In the same category as the President? 11 0 12 Α 13 Q As regularly as she can? 14 Α Yes. So she would have access, she would have 15 0 . reason to pass through the book room on a regular 16 17 basis? 18 You know, I don't know what a regular basis is. I mean, if she tries to catch it on one day and 19 not on the next, I just don't know how often she -- I 20 never recorded the times she went and she exercised. 21 22 Right. Two times a week? 108 I mean, I don't know. 1 Α 2 Focusing on the period between approximately the end of July to the beginning of 3 4 August, that is the last 10 days of July and the 5 first 10 days of August, July 20th through August 10th of last year. Were you working in the book room 6 during this period? 7 I'm sorry. I fuzzed. What? 8 Α 9 At the end of this period that we're talking about, the end of July, beginning of August, 10 July 20th through, say, approximately August 10th of 11 1995 last year, were you working in the work room? 12 13 Α Yes, I was. Daily? 14 0 A 15 Yes, I was. But you didn't, did you spend the majority 16 0 of your time in the book room? 17 18 Α Probably. 19 Q During this period.

During this period, more so in August

beginning of August working on her book. I did spend

because Mrs. Clinton started spending more time

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109 a considerable amount of time in there, though, when 1 she was up there in July, when she would go up I 2 3 would go up and work on follow-up, work on other items. And like I said, you know, around the end of 4 July when staff was out of town. And so we had to 5 accommodate, and I kept up communications between 6 7 staff members and Mrs. Clinton. 8 Now during this time, you have drawn us a diagram of this, of a six-foot table with materials 9 on top of the table. And boxes containing materials 10 underneath the table and some boxes around the table. 11 12 as you testified earlier. At any time during this period, did you see 13 anybody add or take away any materials on, around or 14 below that table? 15 I never saw anyone add or take away, but 16 17 items would pile up. Items would pile up. So you would notice 18 items that weren't there before --19 20 Well, it just seemed as though the piles got larger and larger over time. 21 Not any specific items, just your general 22 110 impression that there were things being put there 1 that were not being taken away. 2 3 Α Yes. 4 Do you have any recollection of any specific items that may have caught your eye? 5 No. It's so stacked with so many things; 6 it's very difficult to distinguish one item from the 7 8 next. 9 Did you ever see Carolyn Huber during this period, working or cataloging or looking at things in 10 the book room? 11 12 Α No. I don't. 13 Did you see her in the book room at all? 0 No, I don't remember. I mean, she may have 14 Α been passing through there but I don't recall. 15 Did you see Maggie Williams entering or 16 exiting this room during this period? 17 18 No. I don't remember. Α Did you see her on the third floor? 19 Q During this time period? 20 Α

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O

Α

During this time period.

I really don't remember with any

specificity if she was upstairs. I mean, because 1 Mrs. Clinton was spending some time, and if I'm in 2 the book room she could be up there. I don't know. 3 But you don't remember any specific time 4 during which Ms. Williams was up there with the First 5 6 Lady? 7 No. I don't. Α It may have happened, you don't remember or 8 O you simply don't have any recollection? 9 I don't have any recollection of her being 10 up there. 11 Do you know David Kendall? 12 0 13 Α Yes, I do. In what context do you know or just know 14 0 15 him --16 Α I know him as Mrs. Clinton's attorney. And do you see him on a regular basis in 17 0 that capacity? That is, would you recognize him if 18 19 you see him? 20 I would recognize him if I saw him, yes. A Did you see David Kendall in the book room 21 22 during this period? 112 1 Α No. 2 Entering or exiting? O I have no recollection of seeing him. 3 Α Did you see him anywhere in any of the 4 0 rooms adjacent to the book room, like the exercise 5 room or something like that? 6 7 No, I have no recollection of seeing David 8 Kendall in those areas. 9 Did you see him on the third floor? 10 Α No, I have no recollection of seeing him on 11 the third floor. 12 How about Neel Lattimore, do you know Neel 13 Lattimore? 14 Α Yes, I do. 15 0 What is his position? 16 Α He is deputy press -- deputy press 17 secretary. 18 To the First Lady? 0 19 Α Yes, to the First Lady. Who is the press secretary? 20 0 21 A Lisa Caputo. 22 Q So Neel reports to Ms. Caputo?

113 1 A Yes, he does. 2 Did you see him entering or exiting the 3 book room during this period of time? 4 No, I have no recollection of seeing Neel 5 during this time. 6 O In the third floor? 7 A No, I have no recollection of seeing Neel 8 on the third floor. 9 O How about -- well, any of the rooms adjacent to the book room? It's probably encompassed 10 in your earlier answer. I just want to be clear. 11 No, I don't have any recollection of seeing 12 13 him in any of those rooms. O Not even the hallway? 14 15 I just don't recollect seeing him up there. During this period, do you recall seeing 16 17 Patti Solis entering or exiting the book room? 18 No. I have no recollection of seeing her 19 enter or exit the book room. On the third floor? 20 0 21 Α On the third floor? 22 Q How about any --114 1 A Anywhere on the third floor? 2 Anywhere on the third floor. 0 3 No, I don't remember her entering or exit 4 anywhere on the third floor. 5 How about guests during this period, during 6 this specific approximately 20-day period, guests to 7 the White House; do you recall any one of them during this period, being present while you were there in 8 9 the book room? No, I don't remember any guests being 10 11 present in the book room. 12 Did you see any guests enter or exit the 13 book room during this period? 14 People pass through all the time. I couldn't specifically name this person or that 15 person, but people were always passing through. 16 But none that you would know or identify as 17 a guest? 18

Well, you know, I can't say with absolute

certainty, but I'm sure that there were people. I mean -- no, I can't identify any specific person who

was going in and out of that room, but there were

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many people who would pass through that room. 1 2 They may have been a guest, you just didn't 0 3 know? 4 I just didn't make it noteworthy. Α How about, did any guest during this period 5 0 of time use the exercise room? 6 I can't, I guess again I can't say with 7 absolute certainty. Just, I noted people would go in 8 and use it people would go out. During that time 9 period, there was lots of family staying. Lots of 10 family. I think that most of the guest rooms were 11 filled with family members and friends of family 12 members, and they would go in and out freely. 13 14 Any particular reason why this period was very popular for family members? 15 16 Nothing comes to mind as to specifically why they all came to town. 17 Did you give a tour or direct anybody who 18 was a guest to the exercise room or of the book room? 19 20 Did I give --Like, did anybody ask you where is the 21 0 22 exercise room who was a guest during this period? 116 1 They very well may have. It's not 2 something that I note. People do that on occasion, 3 veah. 4 Do you recall giving any such directions to 5 anybody during this period? 6 Again it's just not noteworthy to me, so no, it just doesn't come back to me if I gave 7 specific direction. 8 9 So I take it that you see, on a regular basis, people in the third floor of the White House 10 whom you did not recognize. 11 12 Oh, yes, there are people that have been on the third floor of the White House that I have not 13 14 recognized. 15 (Discussion off the record.) 16 BY MR. DINH: Do you specifically remember seeing 17 anybody, do you specifically remember seeing anybody 18 during this period -- I know I said -- I ask you just 19 20 to focus, bear with me a couple more minutes --21 during this period, lingering or, you know, working

or standing in the book room, whom you did not

117 recognize and whom you did not readily identify as 1 one of the maids, butlers or construction workers? 2 3 A No. I don't recall that with any 4 certainty. People were in and out all the time. 5 Is there a sign-up log for the videotapes? 6 No, there's no sign-up log for the Α 7 videotapes. 8 People just take it -- take it to their 0 9 rooms? 10 Yeah, they've lost a lot of them because people just take them, family members take them 11 home. And things like that. 12 Perhaps they should ask the FBI to 13 14 institute security procedures there. You testified earlier that your duties do 15 not normally encompass recordkeeping or handling of 16 any records for the First Lady. Have you ever 17 18 handled any documents relating to the Rose Law Firm? 19 No. I have not. 20 Have you seen any such documents? 0 21 No. I have not. Α 22 0 Let me ask you to study what I'm about to 118 1 give you -- and I'll identify as DKSN 28928 -- and 2 ask you just to look at those, thumb through those really quickly. 3 4 (Witness reviewed the document.) 5 Have you ever seen anything like this 6 before? 7 No Α 8 Have you seen any larger 11-by-17 9 enlargements of similar records? No. That type of -- the only thing that 10 11 looks any type similar is the paper. The computer printout? 12 0 The computer printout paper is under 13 Chelsea's computer. She has some computer paper 14 15 that's got holes on the sides. It's an old computer. Chelsea's computer is located where? 16 0

A Yes.

Q -- against the south wall of the thing,

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A

located in the book room.

vou have marked here --

Well, the old computer, her old computer is

Q In the book room. That's the computer that

		119
1	next to the exercise room?	
2	A Right.	
3	Q What size is that paper?	
4	A It's about it's that size.	
5	Q Normal 8-1/2-by-11?	
6	A Yes.	
7	Q Have you ever seen paper of that size or	
8	photocopies of papers of that not of that size,	
9	but of that type, that is an 11-by-17 sheet of paper?	
10	A No, I have not.	
11	Q A sheet of paper that measures 11-by-17	
12	pages?	
13	A Have I seen?	
14	Q Have you seen around the book room the	
15	paper, that is computer generated paper, with holes	
16	on the side with perforated edges in order	
17	designed to go through a computer?	
18	A I don't recall ever having seen anything	
19	like that. I mean, something like that could be	
20	there, but I just don't recall ever having seen it.	
21	Q Any photocopies of such things? It's	
22	fairly a large size piece of paper.	
		120
1	A I don't recall ever having seen anything	
2	like that. Something could have been there, but I	
3	just don't recall ever having seen it.	
4	Q How about on the table directing your	
5	attention specifically to the table itself. Have you	
6	ever seen any such things there?	
7	A Oh, no, I don't recall seeing anything like	
8	that.	
9	Q You testified earlier, this is mostly	
10		
	memorabilia and pictures and books, and the like?	
11	memorabilia and pictures and books, and the like? A Yeah.	
	•	
11	A Yeah. Q Any loose paper on the table as a general matter?	
11 12	A Yeah. Q Any loose paper on the table as a general matter?	
11 12 13	A Yeah. Q Any loose paper on the table as a general matter?	
11 12 13 14	A Yeah. Q Any loose paper on the table as a general matter? A Oh, sure, there is lots of loose paper.	
11 12 13 14 15 16	A Yeah. Q Any loose paper on the table as a general matter? A Oh, sure, there is lots of loose paper. I've never identified any paper or anything like that, but there is various types of sheets of paper and folders, and those accordion type folders.	
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11 12 13 14 15	A Yeah. Q Any loose paper on the table as a general matter? A Oh, sure, there is lots of loose paper. I've never identified any paper or anything like that, but there is various types of sheets of paper and folders, and those accordion type folders. Q Right, Redwell folders. Have you ever seen during this period between July 20th and August 10th, 1995 a stack of	
11 12 13 14 15 16 17 18	A Yeah. Q Any loose paper on the table as a general matter? A Oh, sure, there is lots of loose paper. I've never identified any paper or anything like that, but there is various types of sheets of paper and folders, and those accordion type folders. Q Right, Redwell folders. Have you ever seen during this period	

121 1 I have no recollection of ever seeing 2 anything like that in that room. 3 In that room or on the table? 4 Α On that table 5 0 Or in the room? 6 A I have no recollection of seeing anything 7 like that on that table or in that room. 8 Have you seen anybody carry such documents 9 as I have described anywhere around the third floor 10 of the White House? 11 No. I have no recollection of ever having 12 seen anyone carry any of those documents, documents like that around the third floor of the White House. 13 14 0 The second floor? 15 I have not seen anyone carry documents like 16 that on the second floor of the White House. 17 Have you heard, at the time -- let me focus 18 your attention to at the time and times prior, have 19 you heard of any discussion or have any familiarity 20 with anything having to do with Rose billing records? 21 The only type of conversation that I would have heard of is through the newspaper accounts and 22 122 1 things like that, that they were looking for some 2 records. We also -- I also received subpoena, a 3 general subpoena or memorandum about a subpoena through White House counsel looking for those 4 5 records. 6 0 Approximately when did you receive this 7 memorandum? 8 I don't recall. I mean, I'm trying to 9 remember. 10 0 Several years ago? 11 Oh yeah, it was a couple years ago. Looking for records like that, Rose billing 12 0 13 records? 14 Anything that was relating to -- in Α 15 reference to, you know, that type of stuff, Madison 16 and the Rose Law Firm. 17 0 Specifically naming Rose law firm? 18 Yeah. Α 19 You mentioned that you would have heard of 20 it from newspaper accounts. Do you generally keep up

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with the newspapers?

I try.

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Q And follow the story of the -- of what various investigators are seeking with respect to the records?

A Well, if I catch it on occasion. I mean, there is something that's going on. I mean, you have so much going on day to day that trying to keep up with what's happening, you know, up here is a little tougher.

Q Now, let me direct your attention to, toward the period of the beginning of this year, the first week of this year, of January of 1996.

A Okay.

Q Did you hear prior to January 4th, 1996, did you hear any talk or have any discussions within the context of your duties at the house White House, or when you were at the White House, or with other people at the White House regarding Rose Law Firm billing records?

19 A No.

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Q Did you have any such conversations after January 4th, 1996?

A Regarding these --

- 1 Q Rose Law Firm billing records.
 - A To date you mean?
- 3 Q Yes.

4 A Just regarding Carolyn Huber's testimony 5 that, you know, that she had found something like 6 that.

Q When was the first time you heard that Carolyn Huber found something like that?

A I don't recall exactly, but I think it was like on C-Span or CNN, or something like that -- CNN rather -- that it came across that they had been found. And it was like, you know, mid-January -- second week of January or something like that.

Q And did you have subsequent conversations with people you work with regarding those records?

A Just sort of surprise and, you know, wonderment, and trying to figure out how she could have found them, and the way that she found them, why.

Q With whom were you having these conversations?

A Oh, a variety of people. I mean,

125 1 everybody. It was just sort of office talk. 2 General talk of the office? 0 3 Yes Α 4 Was this the topic of the day, as it were, 5 when it came up? 6 Α Was this the topic of the day? 7 Was it the topic that everybody was talking 08 about generally? 9 Yes, generally, I mean, people were just sort of, you know, did you hear, did you see type of 10 11 conversation, and sort of drop it, you know, it was 12 iust --13 Your answer was that you did not see but 0 you had heard? 14 15 No, no, no. That you saw on television or did you read in the newspaper. That's what I mean. 16 17 Have you had -- during the course of these conversations that you've had subsequent to their 18 discovery, have you gained any knowledge that 19 would -- any knowledge that is independent of any 20 knowledge you gained through news reports? That is, 21 did you gain any new information with respect --22 126 during these conversations that you had not learned 1 2 before during news reports? 3 No. 4 And I take it you have no independent basis 5 of information regarding these Rose Law Firm billing records, independent of the news reports? 6 7 Α No 8 Do you have anything else to add regarding the circumstances of how they were lost, or how they 9 were found in the book room, these Rose billing 10 11 records? Do you have any other information regarding the circumstances on how they were lost or how they 12 13 were found? 14 Oh, it just is -- it just seems, you know, 15 sort of surprising to me. It just doesn't seem that, you know, one and one makes two in the scenario. 16 17 That's all. 18 Can you explain what is the one and what is 19 the other one, and what is the two? 20 If we take -- you know, and I am going by

newspaper accounts and television reports, but, you know, I take for fact that she actually found --

"she" being Carolyn -- the documents in a box in her office. And she found it at the beginning of

office. And she found it at the beginning of January. And she was very surprised that she found

4 the document in the box in her office. But at the

5 same time she says oh yeah, and I remember exactly

6 where that was, on that empty table. I mean, the

7 table wasn't ever empty and, you know, to have such

8 instantaneous memory of that document being on the 9 corner of a table, I mean, to me is kind of odd. And

also, you know, I mean, she's sort of, she's the

office manager and, you know, why --

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16 17 Q Office manager of Rose Law Firm?

A She was the office manager for the Rose Law Firm for a while. She picked up and sort of looked at the document, and I mean, from what I understand, she picked it up and put it in a box. Why didn't she see that it was a billing record then. It's just all -- and it's not to say -- Carolyn is a hard worker. She's a really hard worker. And, you know, she just -- sometimes we're overburdened and there's

she just -- sometimes we're overburdened and there' a 25 percent cut in our staff. Everybody is doing a

22 lot of work. Everyone is doing a lot of jobs.

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So I'm just, I'm trying to figure it out. You know, I'm trying to figure out the story, I'm trying to figure out why her account is just so -- to me just doesn't add up.

Q Now, I know that information you have with respect to the discovery of the records are all based upon news accounts, and basically independent news accounts, and you have no independent knowledge or information regarding that. However, you have much better firsthand knowledge, being the primary user of this space in the book room, that the records were removed allegedly at the end of July and in August.

Does that knowledge contribute to your estimation that you just gave to me earlier regarding how the story doesn't add up, quote unquote?

A I'm sorry. You're going to have to state that one again. You lost me.

18 Q Part of your answer earlier was that the 19 table was not empty. It was full with other things 20 on the table, other things, and it was not completely 21 empty as Ms. Huber has apparently testified in news 22 accounts that you've heard.

129 This answer, your answer, your statement in 1 2 that answer breaks down to two bases of knowledge. 3 That is, one is the information you've heard regarding their discovery is from news reports 4 that -- regarding Ms. Huber's testimony as to how she 5 6 found the records. The other half, however, are based on your knowledge of the book room, and your 7 8 memory of what was contained in it and its state at 9 the time of -- end of July and beginning of August? 10 Yes. 11 Q So is your testimony that, quote, it 12 doesn't add up, end quote, depend on both halves of that answer? That is, your knowledge of -- your 13 knowledge of the book room, of the conditions of the 14 book room, and the circumstances in the book room, 15 and what materials are there, because I don't have 16 that knowledge, and in light of that the information 17 that you've garnered through news reports? 18 19 My testimony is that the room, the state of the room during that period of time was in disarray. 20 It has always been in disarray. It's always had 21 books stacked on top of tables and things that were 22 130 just sort of disheveled. It just is very surprising 1 2 to me and that her testimony was, as I read it in the 3 newspaper, that she found it so, the document so clearly marked, so clearly found. It's just --4 Right. On a clean table, you mean? 5 6 On a clean table. Α 7 Sitting in the middle of the table; is that 8 what you were referring to? 9 Yes. I believe that she was saying it was so clearly visible. I believe on a corner of the 10 table or something like that. 11 Q But the table itself, according to your 12 testimony, is filled with stuff all throughout the 13 14 entire -- the entire surface of the table was filled with knickknacks and memorabilia and books or 15 16 pictures? 17 Books primarily, magazines, news clippings. A It would have been unlikely to have an open 18 19 space on the table for something to be actually on the surface of the table so clearly? 20

It just -- it's not part of my recollection. It's not something that I remember.

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131 MR. BRAY: Viet, that's a lot more than 1 2 five questions. 3 (Laughter.) 4 BY MR. DINH: 5 And have now just to close out the loop, 6 you said that Ms. Huber, you did not see -- this stuff keeps piling up in this particular desk or 7 8 table and around the table, and things weren't being 9 taken away. And you did not see Ms. Huber collect these 10 materials and take them down at any time? 11 No, I didn't see Ms. Huber come in and get 12 13 the materials. 14 After August -- after August 10th, let's 15 say, did you see Ms. Huber or one of her assistants 16 take these and catalogue them? 17 A No. I did not. 18 Are the boxes and all that stuff still 19 there now, as we speak? 20 Well, there are boxes that are still within 21 the room. And there's carts and there are other 22 things all over the room. There's also, in addition 132 to that, though, on the 6-foot table presently a fax 1 machine that was brought in, and a copy machine. 2 So it was cleared off somewhat in order to 3 4 make room for the copy machine and the fax machine? 5 Yeah. You are asking me today, what does 6 that room look like today? 7 0 Right. 8 A That room has books stacked on top of it. 9 That table. You said the room. 0 10 I'm sorry. The table has books stacked on top of it, it has papers. There are pens, pencils. 11 12 There's a copier. There's a fax machine and a 13 computer monitor. 14 And so somebody has cleared some space on 15 that table in order to make room for all the additional equipment? 16 17 Yes. Α 18 0 You don't know who that was? 19 Α It was myself. 20 You did? 0 21 Α Yeah.

And where did you put the stuff?

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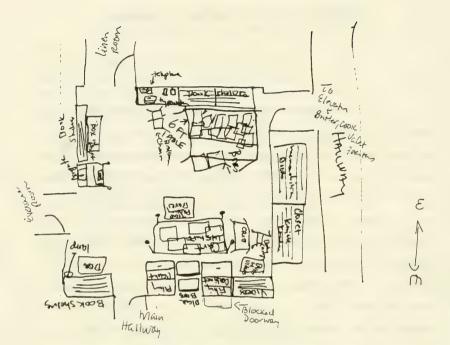
133 1 On the shelves behind it. I removed --2 yeah. 3 But you didn't see Ms. Huber, during this 4 period in August and July, coming up there and 5 removing any boxes, or even a number of boxes, in 6 order to take them downstairs in order to catalogue? 7 No 8 Based on your -- based on your recollection 9 as to what materials were there, did you think that 10 she could have done it without your knowledge? Anything is possible. I don't know. Are 11 12 you asking me to assume something? I don't know. You said things kept piling up and they 13 14 didn't seem to be removed, was your earlier 15 testimony. 16 Α 17 0 Was that continuing through the period of 18 August 10th, 1995? 19 Yes. It seemed to me -- I mean, I didn't 20 note exactly oh, there are five books in this pile and seven books in this pile, and oh, I better make 21 sure that no one touched it. No. There is just a 22 134 mound, there was a mound of stuff. 1 2 Q And your earlier testimony, the mound was 3 being augmented --4 Not by a rapid rate. You might get a 5 couple of books here, a couple of books there. Not every day was it growing into this astronomical 6 mound. It was just you can tell a few more things 7 8 were stacked on top. 9 Did anything get taken away at an 10 astronomical rate, at an astronomical rate or even a 11 gradual rate, during this time period? 12 Nothing that was noteworthy to me. 13 MR. DINH: That's all I have. 14 MR. IVEY: I have no questions. 15 (Whereupon, at 7:15 p.m., the deposition 16 was concluded.) 17 18 19 CAPRICIA P. MARSHALL 20

CERTIFICATE OF NOTARY PUBLIC & REPORTER

I, PATRICIA A. ZUBER, the officer before whom the foregoing deposition was taken, do hereby certify that the witness whose testimony appears in the foregoing deposition was duly sworn; that the testimony of said witness was taken in shorthand and thereafter reduced to typewriting by me or under my direction; that said deposition is a true record of the testimony given by said witness; that I am neither counsel for, related to, nor employed by any of the parties to the action in which this deposition was taken; and, further, that I am not a relative or employee of any attorney or counsel employed by the parties hereto, nor financially or otherwise interested in the outcome of this action.

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